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12103



Washington, Tuesday, December 19, 1961

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# Rules and Regulations

# Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203-BRIDGE REGULATIONS

Pend Oreille Lake, Idaho

Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), \$203.815 is hereby amended revoking the regulations governing the operation of the Spokane International Railway Company bridge across Clark Fork (Pend Oreille) River near Sandpoint, Idaho, changing the title thereof, and prescribing regulations to govern the operation of the Northern Pacific Railway Company bridge across Pend Oreille Lake near Sandpoint, Idaho, effective 30 days after publication in the Federal Register, as follows:

- § 203.815 Pend Oreille Lake, Idaho; bridge of Northern Pacific Railway Company near Sandpoint.
- (a) The owner of or agency controlling the bridge will not be required to keep a draw tender in constant attendance.
- (b) Whenever a vessel, unable to pass under the closed bridge, desires to pass through the draw, at least 36 hours' advance notice of the time the opening is required shall be given to the authorized representative of the owner of or agency controlling the bridge.

(c) Upon receipt of such notice, the authorized representative of the owner of or agency controlling the bridge, in compliance therewith, shall arrange for the prompt opening of the draw at the time specified in the notice for the passage of the vessel.

(d) The owner of or agency controlling the bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge, in such manner that it can easily be read at any time, a copy of the regulations in this section together with a notice stating exactly how the representative specified in paragraph (b) of this section may be reached.

(e) The operating machinery of the draw shall be maintained in a serviceable condition and the draw opened and closed at intervals frequent enough to assure that the machinery is in proper order for satisfactory operation.

[Regs., December 1, 1961, 285/91 (Pend Orelle Lake, Idaho)—ENGCW—ON] (Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

J. C. LAMBERT,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 61-11969; Filed, Dec. 18, 1961; 8:45 a.m.]

# PART 206—FISHING AND HUNTING REGULATIONS

# Chesapeake Bay, Maryland and Virginia

Pursuant to the provisions of section 10 of the River and Harbor Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), § 206.50 governing the construction and maintenance of fishing structures in Chesapeake Bay, Maryland and Virginia, and its navigable tributaries is amended to change the limits of the areas under the supervision of the Baltimore and Norfolk Districts necessitated by the abolishment of the Washington District and to make other necessary minor revisions effective on publication in the FEDERAL REGISTER since the change in jurisdictional limits is already in effect as follows:

- § 206.50 Chesapeake Bay, Maryland and Virginia, and its navigable tributaries; fishing structures.
  - (c) Fishing structures. \* \* \*
- (2) Crab pots. Each crab pot shall be marked by a buoy made of cork or other buoyant material of such size and color as to be readily discernible from a distance of 200 feet under normal weather conditions. The line securing the buoy to the trap shall be rope of cotton or similar material and shall not exceed one-fourth inch in diameter.

(d) Location—(1) Fishing structure limits. The geographic positions of control points marking the established fishing structure limits are given in paragraphs (e) and (f) of this section, and the limits are shown on United States Coast and Geodetic Survey charts. Positions of intermediate points marking the fishing structure limits which are not given may be found by referring to the charts. The points listed are connected by straight lines unless otherwise indicated. Fishing structure buoys, which are special buoys painted with horizontal black and white stripes, have been placed to mark the fishing structure limits, and regular aids to navigation are used in conjunction with the fishing structure buoys where possible. Aids to navigation used as control points may be renumbered or shifted by the Coast Guard. In such cases the fishing structure limits do not change, and the location of the control point remains fixed at the geographic position indicated. The fishing structure buoys are numbered "1B" and "1N" in the Baltimore and Norfolk Districts,

(e) Baltimore District—(1) West side of Chesapeake Bay north from Cove Point to Middle River.

	Latitude			Longitude		
Table Waller Street	0	,	"	0	,	"
Unmarked PointFollowing line of 30-foot	38	23	09.8	76	22	33. 8
depth. "1B" "2B"	38	26	33.6	76	26	00.0
"2B"	38	31	07.8	76	28	58.8
"5B"	38	5	43. 2	76	28	43. 2
"6B"	38	38	39. 0	76	29	12.0
"7B"	38	41	24.0	76	30	06.0
C 25	38	43	34. 8	76	29	57. 6
"8B"	38	45	12.0	76	30	-00.0
No limit line.	00					
"9B"	38	46	06.7	76	29	43.1
"9B" "10B"	38	48	18.6	76	28	24.0
C 27	38	49	56. 4	76	27	45. 6
"32B"	38	51	50.1	76	27	01.1
C 1:	38	52	11.7	76	28	54. 2
No limit line.						
(Fl. R) "4"	38	54	04.6	76	28	38. 4
N 2	38	53	43.9	76	27	53.4
"11B"	38	53	13.9	76	26	13.6
C 31	38	53	39.0	76	25	53. 4
Following line of 25-foot	PO 1					
depth to point 1,700				1		
yards northerly of Sandy	18.50			71.00		
Point Light. (No limit	199			386		
line for a distance of 200				1930		
200 feet on either side of						
approach channel to Sev-	30.00			254		
ern River.)	100			3.55		
No limit line.				133		
Baltimore Light.	39	04	00 F	76	04	24. 0
Unmarked Point		04	06. 5		24	
Do	39	06	42.0	76	24	24. 0
Do	39	08	28.0	10	25	04.0
No limit line. Point bearing 329° 45′ true,						
1 000 grands from (Ok				1		
1,000 yards, from (Qk. Fl. R) "14K".	12.0					
"19B"	179			19		
"21B"	39	14	16.7	76	19	33. 8
	39	15	00.0	76	18	15.0
"40B" (Fl. W) "1"	39	16	15. 6	76	20	02. 4
(11. 11)	00	10	10.0	1.0	200	02.
The second secon	-	-			100	-

# (2) Fishing area southeast of mouth of Patapsco River.

	Latitude			Longitude		
	0	,	"	0	,	"
Unmarked Point	39	04	39.0	76	23	17.0
Do	39	07	36.7	76	23	17.0
"34B"	39	09	59.0	76	25	02.0
"16B"			-			
"15B"	39	08	49.0	76	21	07. 5
"14B"	39	08	03.0	76	20	22.0
"33B"			1			
"13B"	39	05	43.0	76	20	54. 0
"12B"	39	04	39.0	76	22	24.0
Thence to point of beginning.	100					

# (3) Fishing area east of mouth of Patapsco River.

	Latitude			Longitude		
"35B" "18B"	39	10	46. 0	76	25	00.0
"20B" N 2. N "2A" "22B" "25B" "25B"	39 39 39 39	14 16 14	45. 0 13. 5 52. 0	76 76 76	17 14 14	49. 2 23. 0 46. 5
"26B" "38B" C 5			45. 0	76	15	48.0
"36B" "17B" Thence to point of beginning.	39	09	23. 5	76	20	21.0

(4) Vicinity of Pooles Island. (i) No fishing structure shall be placed or maintained within 1,000 yards of Pooles Island.

(ii) During the period from October 2 to May 19, inclusive, fishing structures will be permitted in the following-described area southwest and west of Pooles Island: Beginning at the southernmost tip of Pooles Island; thence to Pooles Island Bar Light; thence to "41B" (latitude 39°16′28.0″, longitude 76°18′25.2″); thence to N 2 (latitude 39°17′14.0″, longitude 76°20′15.0″); thence to N 4 (latitude 39°17′56.0″, longitude 76°19′-54.0″); and thence to the point of beginning; excluding all waters within 1,000 yards of Pooles Island. During the period from May 20 to October 1, inclusive, no fishing structures shall be placed or maintained in this area.

(5) Upper Chesapeake Bay and tributaries within Hartford and Cecil Counties. (i) Within Hartford and Cecil Counties no fishing structures shall be placed or maintained more than 800 yards from shore or in water exceeding

18 feet in depth.

(ii) North of Rocky Point no fishing structure shall be placed or maintained within 200 feet of the buoyed channel to and in Northeast River.

(6) East side of Chesapeake Bay south from Howell Point to Maryland-Virginia boundary line.

				22115			
	L	atiti	ude	Longitude			
		,	"	0	,	"	
Hawall Point Light	39	22	16.8	76	06	40.9	
Howell Point Light. N "6F".  Bell (Fl. R) "4W". "28". "24B". "24B". Following line of 20-foot.	39	20	23. 2	76	10	45.6	
Bell (Fl. R) "4W"	39	19	46. 2	76	11	33.0	
"42B"							
"23B"	39	16	35.0	76	13	25.0	
"24B"	39	14	54. 5	76	13	59.0	
Following line of 20-foot							
Rell (Fl R) "6"	39	11	00.0	76	16	47.4	
Bell (1 R) "4"	39	09	37.2	76	18	11.4	
Bell "2"	39	07	37.2	76	18	47.6	
depth. Bell (Fl. R) "6" Bell (1 R) "4" Bell (2" "27B" No limit line	39	05	00.0	76	16	18.0	
Point on line of 25-foot depth in vicinity of Bell	No.						
"2" northeast of Love	ALC: N						
Point Light.	11.39						
Following line of 25-foot	233			780			
depth. N "20C"	-				00		
N "20C"	38	56	07.6	76	.22	54.0	
Bloody Point Bar Light No limit line.	38	50	00.7	76	20	51. 2	
Point on line of 30-foot				1			
depth 4.500 yards north-	1777						
erly of N 20. Following line of 30-foot	100			0-018			
Following line of 30-foot	16-						
depth.	200	AF	07.0	70	OF	07.0	
N 20	38	45 41	27. 0 36. 0	76	25 24	07.8	
N 20 "28B" Bell (Fl. W) "7"	38	38	25. 8	76	20	25. 2	
Following line of 21-foot	00		20.0			20.2	
depth.							
C 11	38	39	25. 2	76	18	05.4	
No limit line.	1989						
Following line of 21-foot depth from Point "A"							
1.550 vards northeast of				1			
C 11 to Point "B", 1,750 yards east of Point "A".							
yards east of Point "A".	1200			1			
No limit line				1			
Following line of 21-100t	1			1			
Following line of 21-foot depth from Point "C" 1,350 yards east of Point							
"B" to Point "D" south-	133						
west of Benoni Point.	133						
No limit line.	100						
Point of intersection of line				1			
ranging from C 11 to N 6							
Boll (F) R) "10" to Ball	100						
with line ranging from Bell (Fl. R) "10" to Bell (Fl. W) "7".	1			133			
N 6	38	36	35.4	76	20	13.8	
C1	38	33	55. 2	76	20	28.8	
No limit line.	108						
Point on line of 30-foot depth approximately	1			1			
3,400 yards west of C 1.	1			1			
Following line of 30-foot	1			1			
depth to its intersection							
with southerly Red	1-						
Sector line approximately	1			1			
4,000 yards west by south of Bell (Fl. W) "1".	1						
or Ben (FI. W) I.				1			

	Latitude	Longitude		
Following southerly Red Sector line to its intersection with line of 18-foot depth in victnity of Bell (Fl. W) "1". Following line of 18-foot depth to point 5,300 yards east by north of Bell (Fl. W) "1". No limit line. Point on line of 18-foot depth 800 yards south-west of N 2. Following line of 18-foot depth to point immediately south of Holland Island Bar Light. No limit line. On a line between Holland Island Bar Light and N 12, beginning at the southerly Red Sector line approximately 3,100 yards south from Holland Island Bar Light, and ending at Maryland-Virginia boundary line.	0 , "	0 1 11		

# (7) Fishing area in vicinity of Sharps Island.

A CONTRACT OF THE STREET		atit	ude	Longitude			
Point on line of 30-foot depth due west of C 3. Following line of 30-foot depth. "29B".  C. C 5. C 5. C 7. Thence due west to point of beginning.	° 38 38 38 38	, 40 38 36 35	06. 0 06. 0 38. 4 03. 6	9 76 76 76 76	, 23 20 21 23	08. 4 45. 6 04. 2 03. 6	

### (8) Pocomoke Sound.

	Latitude		Longitude			
	0	,	,,,	0	,	"
White S"C"	37	54	45.0	75	48	03.6
C 9	37	56	08.4	75	44	32.4
White S "E"	37	57	00.0	75	43	33.0
Pocomoke Channel Light			Marie Control			
"1"	37	57	22.4	75	42	48.6
No line limit.						
Pocomoke Channel Bay	1		1000	188		
Marker "2"	37	57	20.0	75	42	46.9
North End Point Light	37	56	18.5	75	43	42.5
Starling Creek Light "1"	37	55	27.0	75	44	07.8
S "30B"	37	54	30. 0	75	46	15.0
(Fl. W) "6"	37	52	21.6	75	49	07. 2
	100	700000	THE REAL PROPERTY.	1	B LEE	TO SE
		-				-

### (9) Potomac River.

are as Variable and	Latitude			Longitude		
Unmarked point at the intersection of the Maryland-Virginia boundary line and a line between Smith Point Light and C 1. C 1				76	11	49.3
Unmarked Point		01 00 59	35. 6 05. 9 33. 5	76 76 76	24 27 26	51. 2 02. 8 51. 5
No limit line. Beacon (Fl, R) Unmarked Point Do Do	37 38 38 38	59 00 00 01	37. 0 00. 0 16. 8 45. 2	76 76 76 76	27 27 27 25	11.3 19.2 18.7 08.7
Do Do Beacon (Fl.) No limit line.	38 38 38	03 02 01	04. 8 06. 8 51. 0	76 76 76	27 29 32	27.8 55.3 12.7
Unmarked Point Beacon (Fl.) "49B" "50B"	38 38 38	02 02 03	10. 2 25. 0 17. 8	76 76 76	32 30 27	15. 1 02. 8 50. 2
(Fl.) "9" "51B" "52B"	38 38	07 09	05. 9 27. 8	76 76	33 35	19.7 51.1

ed with the	Latitude			Longitude		
	0	,	"	0	,	11
"53B"	38	11	05. 9	76	44	33.5
"53B" No limit line.						
N "14"	38	12	05.0	76	44	36, 1
Unmarked Point	38	12	12.3	76	43	49.0
C "1"	38	12	34.8	76	43	43.5
No limit line.						
Unmarked Point	38	12	37.5	76	43	24.0
Do	38	12	14.8	76	43	20.6
Do	38	12	23.6	76	42	11.2
N	38	12	38. 2	.76	42	12.9
No limit line.			00 0	-		
Unmarked Point	38	13	23.8	76	41	43.9
Do	38	12	29.5	76	41	35. 2
"54B" "55B"	38	12	16.4	76	40	30.0
"55B"	38	11	26. 9	76	35	49.0
"56B"	20		00 7	76	32	FO 0
Unmarked Point	38	08	26. 7 32. 4	76	30	58. 9
Do	38	06	31. 6	76	26	18.6
Do	38	06	03. 2	76	26	32.5
Do	38	06	46. 6	76	27	37. 5
No limit line.	99	00	40. 0	10	41	01.0
Unmarked Point	38	07	06. 2	76	27	31.2
Do	38	06	33. 0	76	26	41.8
Do	38	07	56. 2	76	27	09. 2
No limit line.	00	0.	00. 2			00.2
Unmarked Point	38	08	03.5	76	26	40.6
Do	38	04	15.1	76	25	25. 0
Do	38	03	50. 7	76	24	33.1
Do	38	05	27. 2	76	24	43.0
	300					
No limit line. N"2GP"	38	05	27.1	76	24	21.0
Unmarked Point	38	03	39. 5	76	24	09.7
Bell "2"	38	01	25. 9	76	19	23.4
'57B"	38	02	19.7	76	17	26.2
	Sept.			130-10		

### (10) West side of Chesapeake Bay north from Point Lookout to Cove Point.

	Latitude			Longitude		
	0	,	"	0	,	"
"57B"	38	02	19.7	76	17	26. 2
Point No Point Light	38	07	40.6	76	17	26.3
Unmarked Point	38	17	49.4	76	22	00.0
Following line of 30-foot	1000					
depth.	100	-		mo.	22	22.1
Unmarked Point	38	18	59.0	76	23	56.0
(Fl. W) "3"	38	19	03.8	76	20	00.0
No limit line.				HO	or	16.3
Drum Point Light	38	19	09.2	76	25	51.1
"31B"	38	20	48.7	76	21	01.1
Following line of 30-foot	100					
depth.			00.0	10	22	33.8
Unmarked Point	38	23	09.8	70	Lila	00.0
	The same			6.80		SECTION .

### (11) Fishing area at mouth of Patuxent River.

Latitude			Longitude		
° 38	, 19	30. 2	76 2	22	43.8
	19 20	48. 2 31. 6	76 2 76 2	23 21	18.7 48.8
38	19	56. 9	76 2	21	47.4
	o 38 38 38	° ' 38 19 38 19 38 20	% / " 38 19 30.2 38 19 48.2	0 , " 0 38 19 30.2 76 3 38 19 48.2 76 3 38 20 31.6 76	o / // o // 38 19 30.2 76 22 38 19 48.2 76 23 38 20 31.6 76 21

# (f) Norfolk District—(1) South side of Chesapeake Bay between Cape Henry and Willoughby Spit.

(2) Hampton Roads and James River—(i) From Craney Island Light to Jamestown Island (south side of river).

	L	Latitude			Longitude			
	0	,	"	0	.,	"		
Unmarked Point 7	36	53	43.1	76	23	30.0		
"(ON)"		- 55	38. 2	76	23	21. 3		
"9N" 3"8N" 3"7N" "6N"	36	55	35.8	76	21	08. 2		
47N39	36	56	00.0	76	21	42.9		
"6N"	36	56	00.0	76	23	42.4		
"5N"								
Nansemond River Light	36	54	52.3	76	26	40. 2		
No limit line.								
SHAND	36	55	03.0	76	26	46.		
8 "3N" 8 "2N"	36	56	06.1	76	24	41.8		
149N22		2 1000	Films					
0.010	36	57	53: 5	76	26	42.0		
0"1"	36	59	06. 9	76	27	56. 1		
Unmarked Point 8	36	59	31.4	76	-28	56.3		
S"211N"	37	00	32.4	76	30	15.		
Unmarked Point 9	37	00	44.6	76	32	36. 3		
Unmarked Point 10	37	00	40.3	76	33	52. (		
No limit line.	1							
Unmarked Point 11	37	00	45.0	76	33	52.		
Unmarked Point 12	37	00	49.3	76	32	36.		
		00	49, 5	76	31	09. (		
6 "209N" 5 "206N" 5 "198N" 5 "198N" 5 "196N" 5 "195N"	37	01	50. 2	76	33	21.		
8"108N"	37	02	50. 9	76	35	33.		
8"196N"	37	02	58.0	76	36	57.		
8"105N"	37	02	57. 1	76	38	31.		
S"194N"	37	03	09.0	76	39	06.		
8"192N"	37	03	59.3	76	39	29.		
0 495"	-	09	12.7	76	38	35. 8		
C "25" S "178N" S "175N"	37	11	17.0	76	39	45. (		
R"175N"	37	12	21.5	76	41	27.		
Unmarked Point 13	37	11	50.6	76	43	-00.		
Unmarked Point 14	37	10	27.6	76	44	56.		

# (ii) North side of James River from Jamestown Island to Newport News.

	L	atit	ude	Lo	ude	
	0	,	"	0	,	"
Unmarked Point 15	37	11	14.0	76	45	25. 0
Unmarked Point 16	37	10	59.3	76	44	25. 2
Unmarked Point 17	37	11	56. 6	76	43	05. 2
Unmarked Point 18	37	12	51.7	76	40	21.8
Unmarked Point 19	37	12	47.4	76	39	40. 4
Unmarked Point 20		12	29.7	76	39	12.1
Unmarked Point 21	37	11	59.1	76	38	33. 2
Unmarked Point 22	37	11	31.1	76	38	05. 2
Unmarked Point 23	37	10	45.8	76	37	50. 0
Unmarked Point 24	37	09	56.1	76	37	57.1
Unmarked Point 25	37	09	57.4	76	37	29. 4
No limit line.		00			1	20. 1
Unmarked Point 26	37	09	51.5	76	37	28. 9
S"184N"		09	50.1	76	37	58. 0
Deen Water Shools Tight	27	08	55. 4	76	38	13. 7
S"188N"	37	07	11.3	76	38	14.1
		03	21.8	76	35	30. 5
N"12" (Fl. R) "10" N"8"	37	03	12.0	76	34	45. 0
(F), R) "10"	37	03	15.0	76	33	35. 5
N"8"	37	01	44. 0	76	31	12.9
Bell (F) R) "6"	37	01	13.5	76	30	17.5
Unmarked Point 30	37	00	14.0	76	28	03.0
Unmarked Point 31	36	59	34. 5	76	26	54. 5
2 01110 01	30	00	01.0	10	20	02. 0

### (iii) James River, fishing area northeast of Naseway Shoal.

	I	atit	Longitude			
8 "IN" Unmarked point 32 8 "212N" Unmarked Point 33 Thence to S "IN".	° 36 36 37 37	59 59 00 00	00. 5 36. 3 31. 5 07. 0	° 76 76 76 76	, 27 28 30 28	24. 1 52. 0 03. 1 14. 4

# (iv) James River, White Shoal fishing area.

	1	atit	ude	Longitude			
S "213N" S "210N" S "20N" S "207N" S "205N" S "201N" S "202N" S "204N" S "204N" Thence to S "213N".	o 37 37 37 37 37 37 37 37 37	, 00 00 01 02 02 03 03 02 01	46. 0 46. 7 26. 0 05. 3 45. 9 00. 2 02. 0 51. 0 33. 0	76 76 76 76 76 76 76 76 76	29 30 32 33 35 34 34 33 31	54. 5 40. 7 06. 3 31. 9 00. 2 59. 9 18. 0 29. 5 23. 0	

(v) James River, Point of Shoals fishing area.

	I	Latitude			Longitude			
Maria de America	0	,	n.	0	,	"		
S "199N"	_ 37	02	56.8	76	35	33.4		
S "197N"	_ 37	03	03.9	76	36	56. 9		
S "195AN"	37	03	03.0	76	38	30.0		
S"194AN"	37	03	13.5	76	39	01.0		
S"193N"	37	03	59.0	76	39	21.6		
Unmarked Point 34	37	07	02.5	76	38	17.9		
S "200N"	37	03	11.4	76	35	33.0		
Thence to S"199N".								

# (vi) James River, fishing area north-east of Hog Island.

	Latitude			Longitude			
S "186N" S "179N" S "176N" S "177N" Unmarked Point 35 S "180N" S "181N"	° 37 37 37 37 37 37 37	, 09 11 12 12 12 12 12	48. 0 22. 6 25. 8 44. 5 40. 7 24. 5 54. 4	° 76 76 76 76 76 76 76	, 38 39 41 40 39 39 38	43. 3 36. 0 15. 8 19. 8 43. 9 17. 8 39. 6	
Unmarked Point 36	37 37 37	11 10 09	27. 9 45. 3 47. 4	76 76 76	38 37 38	13. 1 58. 8 07. 1	

# (vii) James River, approach channel to Chickahominy River.

	I	atit	ude	Longitude		
	0	,	"	0	,	"
S "165N" S "167N"	37	13	21.9	76	48	20.9
S "169N" S "171N"	37	14 14	07.0	76 76	50 51	21.4
S "173N" No limit line.	37	14	10.7	76	52	28. 0
S"174N"	37	14	15.0	76	52	17.0
8 "172N" 8 "170N"	37	14	09.3 13.0	76 76	51 50	41.0 20.0
S"168N" S"166N"	37	13	25. 0	76	48	11.7

# (viii) James River, area in vicinity of Jordan Point, fishing prohibited.

	I	Latitude			Longitude			
	0	,	"	0	,	"		
Unmarked Point 37	37	18	15.7	77	12	19.3		
Unmarked Point 38	37	18	18.0	77	12	17.0		
Unmarked Point 39	_ 37	18	56.8	77	13	18.1		
Following line of 25-foot depth.	1			-31				
Unmarked Point 40	_ 37	18	19.5	77	14	54.2		
Unmarked Point 41	37	17	47.2	77	14	46.8		

# (ix) Hampton Roads, Newport News to Hampton Creek.

多多数的企业等	I	atit	ude	Longitude			
	0	,	"	0	,	"	
Unmarked Point 42	36	58	08.5	76	24	29.3	
S "23N"	36	57	36. 2	76	24	34.0	
S "20N"	36	57	51.0	76	22		
8 "19N"							
C "1"	37	00	11.5	76	20	31.4	
Unmarked Point 43	37	00	47.4	76	20	31.0	
	4985			69319			

# (x) Hampton Roads, Hampton Bar fishing area.

L	atit	ude	Longitude		
0	,	"	0		.11
36	58	07.6	76	22	02.5
37	00	11.3	76	20	16.6
37	0.0	02.2	76	19	24. 4
36	59	45.3	76	19	25. 4
36	59	16.1	76	20	21.6
36	58	46.2	76	21	06.2
			1		
	36 37 37 36 36	0 / 36 58 37 00 37 00 36 59 36 59	36 58 07.6 37 00 11.3 37 00 02.2 36 59 45.3 36 59 16.1	36 58 07.6 76 37 00 11.3 76 37 00 02.2 76 36 59 45.3 76 36 59 16.1 76	0 / // 0 // 0 // 36 58 07.6 76 22 37 00 11.3 76 20 37 00 02.2 76 19 36 59 45.3 76 19 36 59 16.1 76 20

(3) West side of Chesapeake Bay north from Old Point Comfort to York River, including Back River.

	I	atit	ude	Longitude			
	0	7,	"	0	,	"	
Unmarked Point 45	37	00	30. 0	76	18	05. 0	
Unmarked Point 46	37	00	38. 0	76	17	42. 0	
		01	00.0	76	17	15. 0	
S "40N"	37	01	00.0	76	16	19. 5	
8 "41N"						12-0-	
Unmarked Point 47					_		
S "43N" Gong (Fl. W) "1" S "214N" (Fl. W) "7" (Fl. G) "9" (Fl. W) "11"					222	2242	
Gong (Fl. W) "1"	37	05	33. 9	76	14	57. 0	
S "214N"	37	05	45.6	76	15	37.0	
(FI. W) "7"	37	06	21.9	76	16	17. 1	
(Fl. G) "9"	37	06	30. 2	76	16	37. 8	
(FI, W) "II"	37	06	35.8	76-	17	26. 8	
Unmarked Point 48Unmarked Point 49	37	06	32.7	76	17	34. 2	
No limit line.	37	06	21.8	76	17	16. 5	
Unmarked Point 50	37	06	22.8	76	17	19 0	
(Fl. G) "13"	37	06	29.3	76	17	43. 8	
Unmarked Point 51	37	06	19.1	76	18	12.6	
Unmarked Point 51Unmarked Point 52	37	06	16.1	76	18	24, 8	
Unmarked Point 53	37	06	13. 4	76	18	46. 7	
Unmarked Point 54		.06	10, 6	76	19	05. 8	
Unmarked Point 55	37	06	09.8	76	19	41. (	
Unmarked Point 56	37	05	21.3	76	20	01. 8	
Unmarked Point 55 Unmarked Point 56 (Fl. G) "29"	37	04	35. 6	76	20	24. 7	
Unmarked Point 57	37	04	06. 9	76	20	57. 9	
No limit line	1000						
Unmarked Point 58 Unmarked Point 59 Unmarked Point 60	37	05	11.0	76	20	21. 9	
Unmarked Point 59	37	05	17.6	76	20	11. (	
Unmarked Point 60	37	05	23. 1	76	20	07. 3	
Unmarked Point 61	37	05	58.3	76	19	52. 8	
Unmarked Point 62	37	05	54. 2	76	20	12. 1	
Unmarked Point 63	37	05	38.1	76	20	35. (	
No limit line.	1			260			
Unmarked Point 64 Unmarked Point 65	37	05	41.8	76	20	39.	
Unmarked Point 65	37	06	09. 2	76	20	00. ]	
Unmarked Point 66	37	06	14.7	76	19	41.	
Unmarked Point 67 Unmarked Point 68	37	06	18.1	76	18	49. 2	
	37	06	27.7	76	19	08. 9	
No limit line.	37	00	27 0	MO	10	00 (	
Unmarked Point 69	37	06	37.0	76	19	30.	
Unmarked Point 70 Unmarked Point 71	37	06	23.8	76	18	14.	
(F) D) "In"	37	06	40.4	76	17	27.	
(Fl. R) "10"Unmarked Point 72	37	06	35. 5	76	16	34.	
Unmarked Point 73	37	06	27.2	76	16	13.	
Unmarked Point 74	37	06	05.6	76	15	46.	
8 "54N"	37	05	58.2	76	14	53.	
8 "55N"	1 .			1		Oca.	
8 "56N"				1000	1608		
8 "54N"  8 "55N"  8 "55N"  8 "57N"  8 "58N"  8 "58N"  8 "58N"  8 "61N"  8 "61N"  8 "62N"  No limit line.							
S "58N"						100	
S "59N"	37	12	20.6	76	17	26.	
S "60N"	37	13	24.8	76	19	17.	
S "61N"	37	12	20.2	76	20	17. 37.	
S "62N"	37	10	36.1	76	22	16.	
No limit line.	1			100			
S "76N"	37	10	43.3	76	22	27.	
8 "76N" - * * * * * * * * * * * * * * * * * *	37	12	28.0	76	20	48.	
S "78N"	37	13	31.3	76 76	19 21	30.	
S "79N"	. 37	13	56. 5			10.	

# (4) Chesapeake Bay, fishing area southeast of mouth of Back River.

Tream the	1	atit	ude	Longitude		
8 "44N" 8 "45N" 8 "46N"	37	00	38. 0	o 76	16	11.0
8 "47N" 8 "48N" 5 "49N" 8 "50N"			29. 8			43. 0
S "51N" S "52N" S "53N"	37	02	21.8	76	12	
Thimble Shoal Light Thence to S "44N".	37	00	51.7	10	14	25. 1

# (5) Chesapeake Bay, fishing area east of mouth of Back River.

	I	atit	ude	Longitude			
S"65N" S"66N"	37	05	53.0	76	14	36. 0	
S"67N" S"68N" S"69N"							
8 "70N" 8 "73N" 8 "74N" 8 "75N"	37 37 37	12 08 07	06. 5 52. 5 48. 8	76 76 76	17 12 12	05. 4 12. 5 05. 7	
8"63N" 8"64N" Thence to S"65N".	37	05	03.7	76	11	48.0	

### (6) York River, above King Creek.

	L	atit	ude	Longitude		
North end of L-shaped pier,	0	,	.11	0	,	"
	37	17	41.1	76	35	18.3
King Creek C "35" C "37" C "41" C "44" S "220N" S "222N" S "222N"	37	19	22.9	76	36	03.6
(1127!)	37	21	03. 5	76	37	20, 2
C (( A1))	37	22	20.3	76	38	42.2
C # 49"	37	23	43. 5	76	40	05, 1
C (1000 X ??	37	24	48.8	76	41	16. 3
O HOOONIN	37	25	51.0	76	42	31. 2
S"222N" S"224N" Bell "47" Bell "47"	37	26	53.0	76	43	46.
D-11 (47)	37	28	48.3	76	44	57.
Fillbates Creek Flats Light	101	40	20.0	10	33	01.
		29	44.6	76	46	55. 1
"51" S"226N"	37	30	06. 9	76	47	15.
8 226N	107	30	52. 5	76	47	41
C "59"	37		01. 7	76	48	29.
Unmarked Point 75	37	32	01.7	10	40	29.
No limit line.	-	0+	40.0	-	47	57.
Unmarked Point 76	37	31	40.2	76		
S"225N"	37	30	31.7	76	47	17.
Unmarked Point 77	37	30	50.8	76	47	28.
No limit line.	-			7		
Unmarked Point 78	37	31	43.9	76	47	19.
N "54"	37	30	13.5	76	47	05.
N "54" N "50"	37	29	50.5	76	46	39.
Bells Rock Light	. 36	20	00.0	76	45	00.
S "223N"	37	26	53.1	76	43	34.
S "223N" S "221N"	. 37	25	56.7	76	42	17.
N "44"	. 37	25	11.4	76	41	25.
N "44" Purtan Bay Light "42"	. 37	23	25.4	76	39	28.
8"219N"	. 37	22	17.5	76	38	19.
S"218N"	. 37	21	09.5	76	37	10.
Pages Rock Light	37	18	39.2	76	35	12.

# (7) Chesapeake Bay, fishing area southeast of mouth of York River.

	L	atit	ude	Longitude		
	0	,	"	0	,	"
8 "86N"	37	09	42.3	76	12	17.9
8 "89N"	37	12	56. 4	76	17	10.8
S "82N" S "83N"	37	14	18.9	76	15	29. 5
8 "84N"	37	11	28.0	76	12	29.3
Thence to S "86N"	37	09	42.3	76	13	17.9

# (8) Chesapeake Bay, fishing area east of mouth of York River.

	L	atit	ude	Longitude			
		,	"	0	,	"	
8 "114N" 8 "115N"	37	12	09.0	76	12	33.7	
8 "116N" S "117N"	37	14	35. 9	76	15	08.7	
S "118N" S "119N"							
8 "120N" S "121N"	37	17	30.3	76	11	34. 4	
S "122N" Thence to S "114N".							

### (9) West side of Chesapeake Bay north from York River to Wolf Trap Light, including Mobjack Bay.

		and the same	A CONTRACTOR OF THE PARTY OF TH		1410	
and the second	I	atit	ude	Longitude		
	c	,	"		,	"
Unmarked Point 79		15	07.0	76	22	42.0
S "80N"	_ 37	14	35. 4	76	20	56.6
S"81N"	_ 37	14	03.9	76	19	11.2
S "89AN"		13	04.0	76	17	22.3
S "90N"	_ 37	14	26.8	76	15	39.6
S"91N"						100
S"92N"						
S "93N"					U DE	- Aude
S"94N"		17	49.9	76	19	12.6
S "95N"					25 34	40000
S "96N"		20	22.7	76	22	14.8
S "97N"		19	54. 2	76	22	53.0
No limit line.	-	10			-	00.0
Q 1109N"	37	19	55. 9	76	23	17.9
S "99N"	37	20	29. 4	76	22	33.0
8 "100N"	37	21	22. 5	76	24	56. 4
No limit line.	- 01	21	22.0	10	21	00. 1
S"101N"	37	22	27.0	76	23	38. 4
S "102N"		21	21.0	76	22	00. 0
		21	16. 9	76	21	08.5
Pultz Bar Light				76		41.1
Pond Point Shoal Light	_ 37	22	13. 2	10	20	41. 1
No limit line.	0.00	00	000	MO	00	01 4
Unmarked Point 80	37	22	05.8	76	20	21.4

# | Latitude | Longitude | | N "2" | 37 21 32.5 | 76 20 40.3 | | S "103N" | 37 19 56.2 | 76 20 41.7 | | S "104N" | 37 18 05.3 | 76 18 49.9 | | S "106N" | 5 | 76 15 18.3 | | S "108N" | 37 14 45.0 | 76 15 18.3 | | S "108N" | 37 17 50.2 | 76 11 30.7 | | S "113N" | 5 | 76 11 30.7 | | S "113N" | 7 | 7 | 7 | 7 | | C 11 | C 13 | 37 23 29.6 | 76 10 27.9 |

### (10) West side of Chesapeake Bay north from Wolf Trap Light to Maryland-Virginia State Border.

	L	atiti	ıde	Longitude			
C(1)2)	0	, 23	29.6	76	,	27.9	
C"13"  S"124N"  S"125N"  S"127N"  S"128N"  S"129N"  S"130N"  S"131N"	37					21.0	
8 "125N"							
S"127N"							
8 "128N"	37	32	15.8	76	11	30.1	
S'129N"	37	33	34.8	76	13	25.0	
S"131N"			01.0				
C"3"	37	31	46.9	76	18	20.0	
No limit line.	-	00	0-1		10	00.0	
Unmarked Point 81	37	32	05.1	76	18	32.0	
8 "133N" 8 "134N" 8 "136N" 8 "137N"							
S"136N"	37	33	54.9	76	13	31.5	
S"137N"							
	37	35	26.2	76	21	20.6	
No limit line. N'"2" S"139N" Linmarked Point 83	37	36	06.8	76	21	20.6	
8"139N"	0.	-00	00.0		21	20.0	
Ullimar Red I Ullie Go	37	34	49.6	76	14	51.1	
Unmarked Point 84	37	37	19.0	76	11	37.5	
8"146N" 8"148N"	37	40	46.7	76	11	29.9	
8 "148N" 8 "150N"	01	40	40.7	10	11	20. 0	
Unmarked Point 85	37	40	23.3	76	15	56.6	
Unmarked Point 86	37	39	19.7	76	18	00.6	
Following line of 18-foot				-			
depth. Unmarked Point 87	37	38	45.4	76	18	59.1	
No limit line.	01	90	70. 7	10	10	00.1	
Unmarked Point 88	37	38	51.0	76	19	04.8	
Following line of 18-foot				13.8			
depth.	27	20	19.0	70	19	04. 5	
Unmarked Point 89 No limit line.	37	39	13 9.	76	19	04. 0	
Unmarked Point 90	37	39	19.8	76	19	01.5	
Following line of 18-foot							
depth.	0	10	07.0	70	10	10 0	
Unmarked Point 91	37	40	07. 2	76	18	16.0	
Unmarked Point 92	37	40	16.6	76	18	06.8	
Following line of 18-foot	1			1			
depth.	-			-			
Unmarked Point 93(Fl. W) "1"	37	40	51. 1 43. 3	76	16 16	22. 1 56. 1	
No limit line.	101	24	20. 0	100	10	00. 1	
Unmarked Point 94	37	42	45. 4	76	16	37.2	
Unmarked Point 95	37	40	52. 4	76	16	02.6	
S "151N"		41	10 8	76	11	28. 7	
S "153"	37	41	16. 5	10	11	28. 1	
S "151N" S "153" C "154N" S "156N"	37	46	58. 2	76	12	13.0	
O "3"	37	47	45.8	76	15	27.4	
O "3" No limit line. Great Wicomico River Light.	1			1			
Tight Wicomico River	37	48	15.0	76	16	04.6	
Light	37	48	24. 7	76	12	03. 0	
		50	51.3	76	11	06. 2	
Smith Point Light O "1" on Maryland-Vir-	37	52	47.1	76	11	02.8	
O "1" on Maryland-Vir-	37	54	09.7	76	11	49.3	
ginia State border	01	01	00. 1	10	11	20. 0	
	1000	-		-	-		

# (11) Chesapeake Bay, fishing area east of mouth of Rappahannock River.

	I	atit	ude	Longitude			
8 "140N"	37	34	45.7	76	14	30. 1	
8 "142N" 8 "145N" 8 "143N" Thence to 8 "140N".	37 37	36 34	58.3 12.8	76 76	11 11	38. 7 44. 9	

# (12) Rappahannock River in vicinity of Tappahannock.

	L	atit	ude	Longitude			
	0	,	"	0	,	"	
Unmarked Point 96	37	49	28.7	76	43	56. 5	
C ''19"	37	51	17.9	76	45	26.6	
S "190N"	37	51	56, 8	76	46	05, 3	
Unmarked Point 97	37	53	27.5	76	46	51.6	
C "23"	37	53	40.3	76	47	05.1	
C "23" (Fl. G) "29"	37	55	03. 3	76	49	20, 6	
Unmarked Point 98	37	55	50, 3	76	51	08, 9	
Unmarked Point 99	37	56	16.3	76	51	35.0	
Unmarked Point 100	37	57	46. 9	76	51	42.0	
Unmarked Point 101	37	58	29.1	76	52	01.5	
No limit line.		CAL.				01.0	
Unmarked Point 102	37	58	30.6	76	51	54.0	
Unmarked Point 103	37	57	46.1	76	51	33.8	
Unmarked Point 104	37	56	19.3	76	51	26. 9	
8 "160N"		55	52.8	76	50	57. 2	
8"160N" 8"161N"	37	55	09.6	76	49	18, 0	
8 "187N"	37	53	37. 9	76	46	48. 4	
Unmarked Point 105	37	51	59.7	76	55	58. 4	
S"191N"	37	51	24. 3	76	45	22.8	
Unmarked Point 106	37	49	31.6	76	43	48.8	
Offmarked 1 offic 100	0.	10	01.0	10	10	20, 0	
	1	30	No. of Lot	1		200	

# (13) Chesapeake Bay, fishing area in vicinity of Tangier Island.

	Latitude		Longitude			
Unmarked point 107 on Maryland-Virginia State Border. N "12" N "71N" Tangler Sound Light. NOTE: Prohibited area.	37 37 37 37 37	56 47 44 47	17. 1 03. 6 24. 0 16. 6	76 76 76 75	, 05 05 02 58	44.8 42.0 42.0 26.7
A circle 1,000 yards in radius with its center at	37	47	54.0	76	03	48.0

# (14) East side of Chesapeake Bay south from Onancock Creek to Cape Charles.

8 "164N" 37 43 24.0 75 51 42.0 8 "163N" 37 43 40.8 75 54 57.0 8 "158N" 37 38 23.2 75 57 12.1 Unmarked Point 109 37 38 23.2 75 63 20.0 No limit line. Unmarked Point 110 37 37 36.0 75 56 00.0 8 "155N" 37 38 25.2 75 58 37.3 8 "152N" 37 38 25.2 75 59 31.2 Unmarked Point 111 27 32 55.2 75 58 05.4
8 "168N"
Unmarked Point 109 37 38 23.4 75 56 00.0 Vinit line, Unmarked Point 110 37 37 36.0 75 56 00.0 S "155N" 37 37 23.9 75 57 37.3 S "152N" 37 32 55.2 75 59 31.2
Unmarked Point 109 37 38 23.4 75 56 00.0 Vinit line, Unmarked Point 110 37 37 36.0 75 56 00.0 S "155N" 37 37 23.9 75 57 37.3 S "152N" 37 32 55.2 75 59 31.2
Unmarked Point 109 37 38 23.4 75 56 00.0 Vinit line, Unmarked Point 110 37 37 36.0 75 56 00.0 S "155N" 37 37 23.9 75 57 37.3 S "152N" 37 32 55.2 75 59 31.2
No limit line, Unmarked Point 110. 37 37 36.0 75 56 00.0 8 "155N" 37 32 3.9 75 57 37.3 8 "152N" 37 32 55.2 75 59 31.2
Unmarked Point 110 37 37 33. 30. 9 75 57 37.3 8 "155N" 37 37 32 55. 2 75 59 31.2 8 "152N" 37 32 55. 2 75 59 31.2
8 "152N" 37 32 55.2 75 59 31.2
77
No limit line.
Unmarked Point 112
8 "149N" 37 31 39.6 75 59 54.0 8 "147N" 37 28 30.7 76 50 40.6
Unmarked Point 113 37 28 15.0 75 59 06.0
No limit line
Unmarked Point 114 37 27 40. 2 75 59 19. 5
8 144N 31 21 20.4 1 31 42 7
8 "141N" 37 24 11.3 76 01 43.7 Unmarked Point 115 37 23 58.8 76 00 05.4
Unmarked Point 115 57 25 36.6
No limit line. Unmarked Point 116 37 23 07. 2 76 00 21.6
8"138N"     37 23 05.5     76 01 59.7       8"135N"     37 15 04.2     76 03 56.4       8"132N"     37 15 04.2     76 03 20.4       8"131N"     37 14 02.4     76 03 20.4       4"32 02.4     76 03 20.4     76 03 20.4       8"31N"     37 14 02.4     76 03 20.4
8 "132N" 37 15 04.2 76 03 20.4 76 03 20.4
8"131N" 37 14 02.4 76 03 20.4 Through the state of the st
No limit line
Unmarked Point 118 37 14 07.4 76 02 04.6
8"128N" 37 13 35.1 76 05 01
8"126N" 8"123N" 37 07 03.6 75 59 17.4
S"123N" 37 07 03.6 75 39 211

[Regs., Dec. 7, 1961, ENGCW-ON] (Sec. 10, 30 Stat. 1151; 33 U.S.C. 403)

J. C. LAMBERT,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 61—11917; Filed, Dec. 18, 1961; 8:45 a.m.]

# Title 5—ADMINISTRATIVE PERSONNEL

Chapter I-Civil Service Commission PART 30-ANNUAL AND SICK LEAVE REGULATIONS

### Annual Leave; Overseas Employees

Section 30.302 is added to Subpart C as set out below.

§ 30.302 Maximum annual leave accumulation-overseas employees.

(a) The effective date on which an employee (otherwise eligible thereunder) will become subject to section 203(d) of the Act is the:

(1) Date of his entry on duty when he is employed locally; or

(2) Date of his arrival at a post of

regular assignment for duty; or

(3) Date on which he begins to perform duty in an area outside the United States and the area of recruitment or from which transferred, when the employee is required to perform duty en route to his post of regular assignment for duty.

(b) When an employee is transferred or assigned to a position in which he is no longer subject to section 203(d) of the Act, the maximum amount of annual leave that may be carried forward into the next leave year shall, on the date prescribed by paragraph (c) of this section, be determined as follows:

(1) When the amount of the employee's accumulated and accrued annual leave is 30 days or less, the employee shall be subject to the accumulation limitation of 30 days prescribed by sec-

tion 203(c) of the Act: or

(2) When the amount of the employee's accumulated and accrued annual leave is more than 30 days, but not more than 45 days, that amount may be carried forward into the next leave year as a maximum; or

(3) When the amount of accumulated and accrued annual leave is more than 45 days, no more than 45 days annual leave may be carried forward into the next leave year, unless the employee is entitled to a greater accumulation under the provisions of section 208 of the Act.

(c) The determination of the amount of annual leave which may be carried forward under the provisions of paragraph (b) of this section shall be made as of the end of the pay period which

includes:

(1) The date on which the employee departs from his post of regular assignment for transfer or reassignment, except when the employee is required to perform duty en route in an area in which he would be subject to section 203 (d) of the Act if assigned there, it shall be the date on which he ceases to perform the duty; or

(2) The date on which final administrative approval is given to effect a change in the employee's duty station when he is on detail or on leave in the United States, or when he is on detail or on leave in an area (Commonwealth of Puerto Rico, or a possession of the United

transferred.

(Sec. 206, 65 Stat. 681; 5 U.S.C. 2065)

UNITED STATES CIVIL SERV-ICE COMMISSION, MARY V. WENZEL, Executive Assistant to [SEAL]

the Commissioners. [F.R. Doc. 61-11993; Filed, Dec. 18, 1961; 8:47 a.m.]

### Title 7—AGRICULTURE

Chapter 1-Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 53-LIVESTOCK, MEATS, PRE-PARED MEATS, AND MEAT PROD-UCTS (GRADING, CERTIFICATION AND STANDARDS)

### Imported Meats

On September 14, 1961, there was published in the FEDERAL REGISTER (26 F.R. 8597) a notice of proposed amendments of the Federal meat grading regulations in 7 CFR, Part 53, with respect to marking of imported meat offered for service under the regulations, under the authority of sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622, 1624)

After due consideration of all relevant matters presented with respect to the proposed amendments, and pursuant to said sections 203 and 205 of the Agricultural Marketing Act, §§ 53.5 and 53.13 of said regulations (7 CFR 53.5, 53.13) are hereby amended as follows:

Section 53.5 is amended by adding at the end thereof the following: "Service under the regulations will be furnished for imported meat only if it is marked in a manner approved by the Chief to show the name of the country of origin on each wholesale cut in such a way that the name of the country of origin appears on most of the major retail cuts. The mark of foreign origin shall be imprinted by roller brand or hand stamp and shall be applied so that the imprint is at least 2 inches from the backbone of lamb, 3 inches from the backbone of veal and calf, and 4 inches from the backbone of beef carcasses. The mark of foreign origin shall be repeated parallel to the backbone of the carcass so as to appear on each round, rump, full loin, rib, and chuck of each bovine and ovine carcass, in letters at least one-fourth of an inch high, but not more than one-half of an inch high, with no more than three-fourths of an inch space between impression. Imprints of each each brand shall be submitted to the Chief for approval prior to use of the brand on meats offered for Federal grading. It shall be the responsibility of the applicant to notify the meat grader performing the service whenever imported meat is offered for grading."

2. Section 53.13 is amended by changing paragraph (a)(1)(i) to read: "(i)

States) from which he was recruited or has knowingly made any misrepresentation or has knowingly failed to furnish any required information or has committed any other fraudulent or deceptive act or practice in connection with any application or request for service under the regulations."

> The purpose of the amendments is to require identification of the foreign country of origin on imported meat of-

fered for Federal grading.

The amendments differ in some respects from the proposal contained in the notice of rulemaking. The differences are due to changes for clarification and greater specificity of requirements with respect to foreign origin markings. It is believed that further notice of rulemaking and other public procedure on the amendments would not make additional information available to the Department. Therefore, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that further public rulemaking procedure is unnecessary.

The amendments shall become effective March 1, 1962. This will afford handlers of imported meat opportunity to arrange for suitable marking procedures.

Done at Washington, D.C., this 14th day of December 1961.

> F. R. BURKE, Acting Deputy Administrator, Agricultural Marketing Service.

[F.R. Doc. 61-12005; Filed, Dec. 18, 1961; 8:48 a.m.]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B-FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 15]

### PART 728-WHEAT

Subpart—Regulations Pertaining to Farm Acreage Allotments for 1960 and Subsequent Crops

INCREASED DURAM WHEAT (CLASS II) ALLOTMENTS, CALIFORNIA

On pages 10484 and 10485 of the FED-ERAL REGISTER of November 7, 1961, there was published a notice of proposed rule making to issue amendments to the regulations pertaining to farm acreage allotments for 1960 and subsequent crops of wheat to increase Duram Wheat (Class II) allotments for the Tulelake area in the counties of Siskiyou and Modoc, State of California. Interested persons were given 30 days in which to submit written data, views or recommendations with respect to the proposed amendments.

No data, views or recommendations have been received.

The proposed amendments are hereby adopted without change as set forth below.

H. D. GODFREY, Administrator, Agricultural Stabilization and Conservation Service.

DECEMBER 12, 1961.

1. Section 728.1011(f)(6)(viii) is amended to read as follows:

(viii) For 1960, 1961, 1962, and 1963, for any farm in the Tulelake area of California to which the provisions of Public Laws 86-385 and 87-357 are applicable, the sum of the acreage determined as indicated in subdivision (i), (ii), (iii), (iv), (v), (vi), or (vii) of this subparagraph based on the allotment, plus the special Durum Wheat (Class II) allotment determined for the farm under the provisions of Public Laws 86-385 and 87-357 as provided in § 728.1026.

- 2. Section 728.1026(a) is amended by adding at the end thereof a new sentence as follows: "Special acreage allotments shall be established under this section for the crop years 1960, 1961, 1962, and 1963.
- 3. Section 728.1026(f) is amended by changing the second sentence thereof to read as follows: "The special allotments under this section shall be in addition to national, State, and county wheat acreage allotments for the 1960, 1961, 1962, and 1963 crop years, and the acreage of Durum Wheat (Class II) on such special allotments shall be considered in establishing future State, county, and farm acreage allotments.
- 4. Section 728.1026 is amended by adding at the end thereof a new paragraph (h) as follows:
- (h) The producers on any farm for which the 1962 wheat acreage allotment is increased pursuant to this section shall not be eligible to participate in the 1962 wheat stabilization program (7 CFR Part 776) with respect to such farm; and any provision of law providing for a general reduction in farm acreage allotments or for an acreage diversion program for the 1963 crop of wheat shall not apply to farms for which acreage allotments are increased under this section unless such provision of law is specifically made applicable to such farms.

[F.R. Doc. 61-11965; Filed, Dec. 18, 1961; 8:45 a.m.]

Chapter IX—Agricultural Marketing Service and Agricultural Stabilization and Conservation Service (Marketing Agreements and Orders), Department of Agriculture

[Milk Order No. 46]

### PART 946-MILK IN LOUISVILLE-LEX-INGTON, KENTUCKY, MARKETING AREA

### Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Louisville-Lexington. Kentucky, marketing area (7 CFR Part 946), it is hereby found and determined that:

(a) The following provision of the order does not tend to effectuate the declared policy of the Act for the months of January, February, and March 1962:

In the language in § 946.51(a) preceding subparagraph (1) the words "\* \* \* for each of the months of August through December 1961 \* \* \* \* \*

(b) Notice of proposed rule making, public procedure thereon, and 30 days notice of effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons effected substantial or extensive preparation prior to the ef-

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) A public hearing has been held on proposals to amend Federal Orders No. 46 and 124 regulating the handling of milk in the Louisville-Lexington and Ohio Valley marketing areas, respectively, including the consideration of a consolidation of the two orders.

(4) An amendment to the Louisville-Lexington order effective August 1, 1961 (26 F.R. 6836) provided that for the months of August through December 1961 the Class I price should not be less than the price of June 1961. Time reguired for review of the issues presented on the record of the September 18-27, 1961, hearing would prevent issuance of a consolidated order (if such is deemed desirable on the basis of the record) prior to the expiration of such minimum Class I price.

(5) It is necessary for the purpose of maintaining orderly marketing conditions that this same minimum price be continued for a period sufficient to allow completion of the consideration of the proposed consolidation of the two orders.

Therefore, good cause exists for making this order effective January 1, 1962.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended for the period January 1 through March 31, 1962.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: January 1, 1962.

Signed at Washington, D.C., on December 13, 1961.

> CHARLES S. MURPHY, Acting Secretary.

[F.R. Doc. 61-11983; Filed, Dec. 18, 1961; 8:47 a.m.]

[Lemon Reg. 929, Amdt. 1]

### PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

### Limitation of Handling

Findings. 1. Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon

other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure. and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient. and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b)(1) (i) and (ii) of § 953.1036 (Lemon Regulation 929, 26 F.R. 11818) are hereby amended to read as follows:

(i) District 1: 32,550 cartons;

(ii) District 2: 125,550 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: December 14, 1961.

PAUL A. NICHOLSON, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 61-12004; Filed, Dec. 18, 1961; 8:48 a.m.]

# Title 8—ALIENS AND **NATIONALITY**

Chapter I-Immigration and Naturalization Service, Department of Jus-

### APPLICATIONS FOR DISCRETIONARY BENEFITS

### Miscellaneous Amendments

Reference is made to the notice of proposed rule making which was published in the Federal Register on October 20, 1961 (26 F.R. 9858), pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) and in which there was set out the terms of proposed amendments to Parts 242, 243, 245, 249, and 299 of Chapter I, Title 8, Code of Federal Regulations, pertaining to applications for discretionary benefits. Reference is also made to the rules published in the FEDERAL REGISTER on December 9, 1961 (26 F.R. 11818), concerning Parts 237, 243, and 299, pertaining to the exclusion and deportation of aliens in the United States, designated to become effective January 2, 1962, and which are now being made effective coextensive with the effective date of this order on January 22, 1962.

One representation which was received concerning the proposed rules of October 20, 1961, has been considered and those proposed rules have been amended in

the following respects:

Section 103.5 has been amended to officer; § 242.23 has not been amended; provide for reopening or reconsideration except as otherwise provided in Part 242; § 242.8(a) has been amended by deleting certain procedural material which has been repositioned in § 242.15; § 242.9(a) has been amended to broaden the examining officer's responsibilities and to adjust two cross references; § 242.15 is now being amended as a result of the amendment to § 242.8(a); § 242.17(a) has been amended to show that, in exercising his discretionary powers to grant or deny the applications enumerated therein, the special inquiry officer may consider and rely upon information not contained in the record only when the Commissioner has determined that it is in the interest of the national security and safety to do so, other material being repositioned in § 242.17(d); § 242.17(b) has been amended to show that the respondent may apply for voluntary departure pursuant to section 242(e) of the Act and Part 244 of this chapter; § 242.17(c), which has been added, substantially restates the provisions of § 242.17(b) and has been amended to provide that a determination under section 243(h) of the Act may be based upon information not of record if, in the opinion of the special inquiry officer or the Board, the disclosure of such information would be prejudicial to the interests of the United States; § 242.17(d), which has been added, restates certain provisions of § 242.17(a), and has been amended to point up that not more than one fee is required in connection with an application for the creation of the status of an alien lawfully admitted for permanent residence or for temporary withholding of deportation; § 242,18(a), which has been amended to provide that the special inquiry officer's decision include a discussion of the evidence, also eliminates the formal enumeration of findings of fact in his decision; § 242.18(b) has been amended to show that a summary decision may be rendered when deportability is determined on the pleadings and the respondent does not make an application under § 242.17; § 242.18(c), previously designated § 242.19, has been amended to provide for alternate orders by the special inquiry officer, the provisions of former § 242.18(c) being restated in § 242.17(a); § 242.19(a), previously designated § 242.20(a), has been amended by deleting the words "if any"; § 242.19(b), previously designated § 242.20(b), has been amended to provide for the furnishing of a typewritten copy of the oral decision at the request of the respondent or the examining officer; § 242.19(c), previously designated as § 242.20(c), has been amended to eliminate the words "two copies", and a cross reference was changed; § 242.20, previously designated § 242.21, has amended by deleting the words "Part 103"; § 242.21, previously designated § 242.22, has been amended to provide that an appeal shall be taken within 10 days after the stating of an oral decision rather than after the mailing of the typewritten copy of such a decision; § 242.22 is new and sets forth the procedure for reopening or reconsideration in certain instances by a special inquiry

§ 243.1 is new and is being added to show when an order of deportation becomes final, the provisions of Part 243 being renumbered herein; § 244.1 has been amended to show that an application for suspension shall be made on Form I-256A, this requirement having been contained in § 242.16(e) which is being revoked; § 245.1 has been amended to clarify the ineligible classes; § 245.2 has been amended to show that an application by an alien for section 245 benefits after he has been served with an order to show cause or a warrant of arrest shall be made and considered only in proceedings under Part 242 and that an appeal does not lie from the denial of a section 245 application by a district director, such denial being without prejudice if the application is renewed under Part 242; § 245.3 repositions material formerly in § 245.2; § 245.4 restates former § 245.3; § 245.5, in addition to restating former § 245.4, has been amended by changing a cross reference; 249.1 has been substantially restated; § 249.2 has been amended to make clear that an application by an alien for section 249 benefits after he has been served with an order to show cause or a warrant of arrest shall be made and considered only in proceedings under Part 242 and that an appeal does not lie from the denial of a section 249 application by a district director, such denial being without prejudice if the application is renewed under Part 242.

In addition to the amendatory regulations which are set out below and are hereby adopted, determinations by district directors under section 243(a) of the Act. decisions by regional commissioners under sections 243(h), 245, and 249 of the Act, and decisions by district directors under sections 245 and 249 of the Act which have not been appealed or certified shall be final in all cases where (1) the determination or decision has been made prior to January 22, 1962, in accordance with the regulations then in effect, and (2) a finding of deportability has been made by a special inquiry officer prior to said date; and the alien shall not be entitled to have any such determination or decision by the district director or regional commissioner reconsidered in accordance with the amended provisions of Part 242 unless he can establish that he is in possession of evidence which is material and which by due diligence could not have been discovered and presented for consideration at the time of the prior adjudication.

### PART 103-POWERS AND DUTIES OF SERVICE OFFICERS

1. Section 103.5 is amended to read as follows:

### § 103.5 Reopening or reconsideration.

Except as otherwise provided in Part 242 of this chapter, a proceeding authorized under this chapter may be reopened or the decision made therein reconsidered for proper cause upon motion made by the party affected and granted by the officer who has jurisdiction over the proceeding or who made the decision. When the alien is the moving

party, a motion to reopen or a motion to reconsider shall be filed in duplicate, accompanied by a supporting brief, if any, and the appropriate fee specified by and remitted in accordance with the provisions of § 103.7, with the district director in whose district the proceeding was conducted for transmittal to the officer having jurisdiction. When an officer of the Service is the moving party, a copy of the motion shall be served on the alien or other party in interest and the motion, together with proof of service, shall be filed directly with the officer having jurisdiction. The party opposing the motion shall have 10 days from the date of service thereof within which he may submit a brief, which period may be extended. If the officer who originally decided the case is unavailable, the motion may be referred to another officer. A motion to reopen shall state the new facts to be proved at the reopened hearing and shall be supported by affidavits or other evidentiary material. A motion to reconsider shall state the reasons for reconsideration and shall be supported by such precedent decisions as are pertinent. Rulings upon motions to reopen or motions to reconsider shall be by written decision.

2. A fee is added to the list of fees in paragraph (c) of § 103.7 so that when taken with the introductory material, it will read as follows:

### § 103.7 Records and fees. \*

\*

(c) Additional fees. In addition to the fees enumerated in sections 281 and 344 of the Act, the following fees and charges are prescribed:

For filing application for temporary withholding of deportation under section 243(h) of the Act\_\_\_\_\_ \$25.00

### PART 242—PROCEEDINGS TO DETER-MINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHEN-SION, CUSTODY, HEARING, AND APPEAL

1. Paragraph (a) of § 242.8 is amended to read as follows:

### § 242.8 Special inquiry officers.

(a) Authority. In any proceeding conducted under this part the special inquiry officer shall have the authority to determine deportability and to make decisions, including orders of deportation as provided by section 242(b) of the Act; to reinstate orders of deportation as provided by section 242(f) of the Act; to determine applications under sections 244, 245, and 249 of the Act; to determine the country to which an alien's deportation will be directed in accordance with section 243(a) of the Act; to order temporary withholding of deportation pursuant to section 243(h) of the Act, and to make any other action consistent with applicable provisions of law and regulation as may be appropriate to the disposition of the case. Nothing contained in this part shall be construed to diminish the authority conferred on special inquiry officers by the Act.

2. Paragraph (a) of § 242.9 is amended to read as follows:

### § 242.9 Examining officer.

(a) Authority. When an additional immigration officer is assigned to a proceeding under this part to perform the duties of an examining officer, he shall present on behalf of the Government evidence material to the issues of deportability and any other issues which may require disposition by the special inquiry officer. The examining officer is authorized to appeal from a decision of the special inquiry officer pursuant to \$ 242.21 and to move for reopening or reconsideration pursuant to \$ 242.22.

3. Section 242.15 is amended to read as follows:

### § 242.15 Contents of record.

The hearing before the special inquiry officer, including the testimony, exhibits, applications and requests, the special inquiry officer's decision, and all written orders, motions, appeals, briefs, and other papers filed in the proceeding shall constitute the record in the case. The hearing shall be recorded verbatim except for statements made off the record with the permission of the special inquiry officer. In his discretion, the special inquiry officer may exclude from the record any arguments made in connection with motions, applications, requests, or objections, but in such event the person affected may submit a brief.

### § 242.16 [Amendment.]

- 4. Paragraph (e) Application for discretionary relief of § 242.16 Hearing is revoked.
- 5. Sections 242.17 through 242.23 are revoked and new §§ 242.17 through 242.-23 are added to read as follows:

### § 242.17 Ancillary matters, applications.

(a) Creation of the status of an alien lawfully admitted for permanent residence. The respondent may apply to the special inquiry officer for suspension of deportation under section 244(a) of the Act, for adjustment of status under section 245 of the Act, or for creation of a record of lawful admission for permanent residence under section 249 of the Act; such applications shall be subject to the requirements contained in Parts 244, 245, and 249 of this chapter. The special inquiry officer shall inform the respondent of his apparent eligibility to apply for any of the benefits enumerated in this paragraph and shall afford him an opportunity to make application therefor during the hearing. In exercising discretionary powers to grant or deny an application under this paragraph, the special inquiry officer may consider and rely upon information not contained in the record, provided the Commissioner has determined that it is in the interest of the national security and safety to

(b) Voluntary departure. The respondent may apply to the special inquiry officer for voluntary departure in lieu of deportation pursuant to section 244(e) of the Act and Part 244 of this chapter.

(c) Temporary withholding of deportation. The special inquiry officer shall notify the respondent that if he is finally ordered deported his deportation will in the first instance be directed pursuant to section 243(a) of the Act to the country designated by him and shall afford the respondent an opportunity then and there to make such designation. The special inquiry officer shall then specify and state for the record the country, or countries in the alternate, to which respondent's deportation will be directed pursuant to section 243(a) of the Act if the country of his designation will not accept him into its territory, or fails to furnish timely notice of acceptance, or the respondent declines to designate a country. The respondent shall be advised that pursuant to section 243 (h) of the Act he may apply for temporary withholding of deportation to the country or countries specified by the special inquiry officer and may be granted not more than ten days in which to submit his application. The application shall consist of respondent's statement setting forth the reasons in support of his request. The respondent shall be examined under oath on his application and may present such pertinent evidence or information as he has readily available. The respondent has the burden of satisfying the special inquiry officer that he would be subject to physical persecution as claimed. The determination under section 243(h) of the Act may be based upon information not of record if, in the opinion of the special inquiry officer or the Board, the disclosure of such information would be prejudicial to the interests of the United States.

(d) General. An application under

this section shall be made only during the hearing and shall not be held to constitute a concession of alienage or deportability in any case in which the respondent does not admit his alienage or deportability. The respondent shall have the burden of establishing that he is eligible for any requested benefit or privilege and that it should be granted in the exercise of discretion. The respondent shall not be required to pay a fee on more than one application within paragraphs (a) and (c) of this section. Nothing contained herein is intended to foreclose the respondent from applying for any benefit or privilege which he believes himself eligible to receive in proceedings under this part.

# § 242.18 Decision of special inquiry officer.

(a) Contents. The decision of the special inquiry officer may be oral or written. Except when deportability is determined on the pleadings pursuant to § 242.16(b), the decision of the special inquiry officer shall include a discussion of the evidence and findings as to deportability. The formal enumeration of findings is not required. The decision shall also contain a discussion of the evidence pertinent to any application made by the respondent under § 242.17 and the reasons for granting or denying the request. The decision shall be concluded with the order of the special inquiry officer.

(b) Summary decision. Notwithstanding the provisions of paragraph (a) of this section, in any case where deportability is determined on the pleadings pursuant to § 242.16(b) and the respondent does not make an application under § 242.17, or the respondent applies for voluntary departure only and the special inquiry officer grants the application, the special inquiry officer may enter a summary decision on Form I-38, if deportation is ordered, or on Form I-99, if voluntary departure is granted with an alternate order of deportation.

(c) Order of the special inquiry of-

(c) Order of the special inquiry officer. The order of the special inquiry officer shall direct the respondent's deportation, or the termination of the proceedings, or such other disposition of the case as may be appropriate. When deportation is ordered, the special inquiry officer shall specify the country, or countries in the alternate, to which respondent's deportation shall be directed. The special inquiry officer is authorized to issue orders in the alternative or in combination as he may deem necessary.

### § 242.19 Notice of decision.

(a) Written decision. A written decision shall be served upon the respondent and the examining officer, together with the notice referred to in § 3.3 of this chapter. Service by mail is complete upon mailing.

(b) Oral decision. An oral decision shall be stated by the special inquiry officer in the presence of the respondent and the examining officer, if any, at the conclusion of the hearing. Unless appeal from the decision is waived, the respondent shall be furnished with Notice of Appeal, Form I-290A, and advised of the provisions of § 242.21. A typewritten copy of the oral decision shall be furnished at the request of the respond-

ent or the examining officer.

(c) Summary decision. When the special inquiry officer renders a summary decision as provided in § 242.18(b), he shall serve a copy thereof upon the respondent at the conclusion of the hearing. Unless appeal from the decision is waived, the respondent shall be furnished with Notice of Appeal, Form I-290A, and advised of the provisions of § 242.21

### § 242.20 Finality of order.

The order of the special inquiry officer shall be final except when the case is certified to the Board as provided in Part 3 of this chapter or an appeal is taken to the Board by the respondent or the examining officer.

### § 242.21 Appeals.

Pursuant to Part 3 of this chapter an appeal shall lie from a decision of a special inquiry officer under this part to the Board of Immigration Appeals. An appeal shall be taken within ten days after the mailing of a written decision, or the stating of an oral decision, or the service of a summary decision on Form I-38 or Form I-39. The reasons for the appeal shall be stated briefly in the Notice of Appeal, Form I-290A; failure to do so may constitute a ground for dismissal of the appeal by the Board.

### § 242.22 Reopening or reconsideration.

Except as otherwise provided in this section, a motion to reopen or reconsider shall be subject to the requirements of § 103.5 of this chapter. The special inquiry officer may upon his own motion, or upon motion of the examining officer or the respondent, reopen or reconsider any case in which he has made a decision, unless jurisdiction in the case is vested in the Board under Part 3 of this chapter. A motion to reopen will not be granted unless the special inquiry officer is satisfied that evidence sought to be offered is material and was not available and could not have been discovered or presented at the hearing; nor will any motion to reopen for the purpose of providing the respondent with an opportunity to make an application under § 242.17 be granted if respondent's right to make such application was fully explained to him by the special inquiry officer and he was afforded an opportunity to do so at the hearing, unless circumstances have arisen thereafter on the basis of which the request is being

#### § 242.23 Proceedings under section 242(f) of the Act.

(a) Applicable regulations. Except as hereafter provided in this section, all the provisions of §§ 242.8 to 242.22, inclusive, shall apply to the case of a respondent within the purview of § 242.6.

(b) Deportability. In determining the deportability of an alien alleged to be within the purview of § 242.6, the issues shall be limited solely to a determination of the identity of the respondent, i.e., whether the respondent is in fact an alien who was previously deported, or who departed while an order of deportation was outstanding; whether the respondent was previously deported as a member of any of the classes described in paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), or (18) of section 241(a) of the Act; and whether respondent unlawfully reentered the United States.

(c) Order. If deportability as charged pursuant to § 242.6 is established, the special inquiry officer shall order that the respondent be deported under the previous order of deportation in accordance with section 242(f) of the Act, or shall enter such other order as may be required for the appropriate disposition of the case.

(d) Examining officer; additional charges. When an examining officer is assigned to a proceeding under this section and additional charges are lodged against the respondent, the provisions of paragraph (b) of this section shall cease to apply.

### PART 243—DEPORTATION OF ALIENS IN THE UNITED STATES

Part 243 is amended to read as follows:

243.1 Final order of deportation.

243.2 Warrant of deportation.

243.3 Expulsion.

243.4 Stay of deportation. 243.5 Self-deportation.

243.6 Notice to transportation line. Special care and attention for aliens.

AUTHORITY: §§ 243.1 to 243.7 issued under sec. 103, 66 Stat. 173; 8 U.S.C. 1103. Interpret or apply secs. 242, 243, 66 Stat. 208, as amended, 212; 8 U.S.C. 1252, 1253.

### § 243.1 Final order of deportation.

Except as otherwise required by section 242(c) of the Act for the specific purposes of that section, an order of deportation, including an alternate order of deportation coupled with an order of voluntary departure, made by the special inquiry officer in proceedings under Part 242 of this chapter shall become final upon dismissal of an appeal by the Board of Immigration Appeals, upon waiver of appeal, or upon expiration of the time allotted for an appeal when no appeal is taken; or, if such an order is issued by the Board or approved by the Board upon certification, it shall be final as of the date of the Board's decision.

### § 243.2 Warrant of deportation.

A warrant of deportation based upon the final administrative order of deportation in the alien's case shall be issued by a district director. The district director shall exercise the authority contained in section 243 of the Act to determine at whose expense the alien shall be deported and whether his mental or physical condition requires personal care and attendance en route to his destina-

### § 243.3 Expulsion.

Once the warrant of deportation is issued an alien, if not in the physical custody of the Service, shall be given not less than 72 hours' advance notice in writing of the time and place of his surrender completely ready for deportation. If the alien fails to surrender as directed. he shall be deported without further notice when located. Notwithstanding the filing of an application for a stay of deportation, an alien shall surrender as directed unless he shall receive notice prior to the surrender date that a stay has been granted.

### § 243.4 Stay of deportation.

Any request by an alien under a final administrative order of deportation for a stay of deportation, except a request for withholding of deportation pursuant to section 243(h) of the Act, shall be filed on Form I-246 with the district director having jurisdiction over the place where the alien is at the time of filing. The district director, in his discretion, may grant a stay of deportation for such time and under such conditions as he may deem appropriate. Written notice of the disposition of the alien's request shall be served upon him, but neither the making of the request nor the failure to receive notice of the decision thereon shall relieve or excuse the alien from presenting himself for deportation at the time and place designated for his deportation. Denial by the district director of a request for a stay is not appealable but such denial shall not preclude the Board from granting a stay in connection with a motion to reopen or a motion to reconsider as provided in Part 3 of this chapter.

### § 243.5 Self-deportation.

A district director may permit an alien ordered deported to depart at his own expense to a destination of his own choice. Any alien who has departed from the United States while an order of deportation is outstanding shall be considered to have been deported in pursuance of law.

### § 243.6 Notice to transportation line.

When a transportation line is responsible for the expenses of an alien's deportation, notification shall be made to such line on Form I-284, when applicable, and Form I-288. If special care and attention is required, notification to this effect shall be placed on Form I-288.

#### § 243.7 Special care and attention for aliens.

When a transportation line is responsible for the expenses of an alien's deportation, the alien shall be delivered to the master, commanding officer, or the officer in charge of the vessel or aircraft on which the alien will be deported, who shall be given Forms I-287, I-287A, and I-287B. The reverse of Form I-287A shall be signed by the officer of the vessel or aircraft to whom the alien has been delivered and immediately returned to the immigration officer effecting delivery. Form I-287B shall be retained by the receiving officer and subsequently filled out by the agents or persons therein designated and returned by mail to the district director named on the form. The transportation line shall at its own expense forward the alien from the foreign port of disembarkation to the final destination specified on Form I-287. The special care and attention shall be continued to such final destination, except when the foreign public officers decline to allow such attendant to proceed and themselves take charge of the alien, in which case this fact shall be recorded by the transportation line on the reverse of Form I-287B. If the transportation line fails, refuses, or neglects to provide the necessary special care and attention or comply with the directions of Form I-287, the district director shall thereafter and without notice employ suitable persons, at the expense of the transportation line, and effect such deportation.

### PART 244-SUSPENSION OF DEPOR-TATION AND VOLUNTARY DE-PARTURE

Section 244.1 is amended to read as follows:

### § 244.1 Application.

Pursuant to Part 242 of this chapter and section 244 of the Act, a special inquiry officer in his discretion may authorize the suspension of an alien's deportation, or authorize an alien to depart voluntarily from the United States in lieu of deportation if the alien establishes that he is willing and has the immediate means with which to depart promptly from the United States. An application for suspension of deportation shall be made on Form I-256A.

# PART 245—ADJUSTMENT OF STATUS OF NONIMMIGRANT TO THAT OF A PERSON ADMITTED FOR PERMANENT RESIDENCE

Part 245 is amended to read as follows:

Sec.

245.1 Eligibility. 245.2 Application

245.2 Application.245.3 Adjustment of status under section 13 of the Act of September 11, 1957.

245.4 Documentary requirements.

245.5 Medical examination.

AUTHORITY: §§ 245.1 to 245.5 issued under sec. 103, 66 Stat. 173; 8 U.S.C. 1103. Interpret or apply secs. 101, 204, 205, 212, 234, 242, 245, 247, 249, 66 Stat. 166, as amended, 179, 180, as amended, 182, as amended, 198, 208, as amended, 217, as amended, 218, 219, as amended; sec. 13, 71 Stat. 642; 8 U.S.C. 1101, 1154, 1155, 1182, 1224, 1252, 1255, 1255b, 1257, 1259.

### § 245.1 Eligibility.

An alien who on arrival in the United States was serving in any capacity on board a vessel or aircraft, or was destined to join a vessel or aircraft in the United States to serve in any capacity thereon, or was not admitted or paroled following inspection by an immigration officer is not eligible for the benefits of section 245 of the Act. Pursuant to section 212(e) of the Act, an alien who has or has had the status of an exchange alien or of a nonimmigrant under section 101(a) (15) (J) of the Act is not eligible for the benefits of section 245 of the Act unless he has complied with the foreignresidence requirements of section 212 (e) of the Act or has been granted a waiver thereof. An alien who has a nonimmigrant status under paragraph (15) (A), (15) (E), or (15) (G) of section 101 (a) of the Act, or has an occupational status which would, if he were seeking admission to the United States, entitle him to a nonimmigrant status under any of such paragraphs of section 101(a) of the Act is not eligible for the benefits of section 245 of the Act unless he first executes and submits with his application the written waiver required by section 247(b) of the Act and Part 247 of this chapter. A visa shall not be held to be available for an alien claiming a preference-quota status or a nonquota status under section 101(a) (27) (A) or (F) unless a petition to accord such status has been approved in accordance with Part 204 or Part 205 of this chapter. Except as provided in Part 249 of this chapter, an application under this part shall be the sole method of requesting the exercise of discretion under sections 212 (f), (g), and (h) of the Act, as amended September 26, 1961, insofar as they relate to the excludability of an alien in the United States.

### § 245.2 Application.

An application by an alien after he has been served with an order to show cause or warrant of arrest shall be made and considered only in proceedings under Part 242 of this chapter. In any other case, an alien who believes that he meets the eligibility requirements of section 245 of the Act and § 245.1 shall apply on Form I-485 to the district director having jurisdiction over his place of resi-

dence. The applicant shall be notified of the decision and if the application is denied of the reasons therefor. No appeal shall lie from the denial of an application by the district director but such denial shall be without prejudice to the alien's right to renew his application in proceedings under Part 242 of this chapter.

§ 245.3 Adjustment of status under section 13 of the Act of September 11, 1957.

An application for the benefits of section 13 of the Act of September 11, 1957, shall be filed on Form I-485 with the district director having jurisdiction over the applicant's place of residence. The applicant shall be notified of the decision and if the application is denied of the reasons therefor and of his right to appeal in accordance with the provisions of Part 103 of this chapter.

### § 245.4 Documentary requirements.

The provisions of Part 211 of this chapter relating to the documentary requirements for immigrants shall not apply to an applicant under this part.

### § 245.5 Medical examination.

Upon acceptance of an application, the applicant shall be required to submit to an examination by a medical officer of the United States Public Health Service, whose report setting forth the findings of the mental and physical condition of the applicant shall be incorporated into the record. Any applicant certified under paragraph (1), (2), (3), (4), or (5) of section 212(a) of the Act may appeal to a Board of medical officers of the United States Public Health Service as provided in section 234 of the Act and Part 235 of this chapter.

### PART 249—CREATION OF RECORDS OF LAWFUL ADMISSION FOR PERMANENT RESIDENCE

Part 249 is amended to read as follows:

Sec.

249.1 Waiver of inadmissibility.

249.2 Application.

AUTHORITY: §§ 249.1 and 249.2 issued under sec. 103, 66 Stat. 173; 8 U.S.C. 1103. Interpret and apply secs. 212, 249, 66 Stat. 182, as amended, 219, as amended; 8 U.S.C. 1182, 1259.

### § 249.1 Waiver of inadmissibility.

In conjunction with an application under section 249 of the Act, an otherwise eligible alien who is inadmissible under paragraph (9), (10), or (12) of section 212(a) of the Act may request a waiver of such ground of inadmissibility pursuant to the provisions of section 212(g) of the Act.

### § 249.2 Application.

An application by an alien after he has been served with an order to show cause or warrant of arrest shall be made and considered only in proceedings under Part 242 of this chapter. In any other case, an alien who believes that he meets the eligibility requirements enumerated in section 249 of the Act shall apply on Form I-485 to the district director having jurisdiction over his place of residence. The applicant shall be notified

of the decision and if the application is denied of the reasons therefor. If the application is granted, a Form I-151, showing that the applicant has acquired the status of an alien lawfully admitted for permanent residence, shall not be issued until the applicant surrenders any other document in his possession evidencing compliance with the alien-registration requirements of former or existing law. No appeal shall lie from the denial of an application by the district director but such denial shall be without prejudice to the alien's right to renew an application in proceedings under Part 242 of this chapter.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

The basis and purpose of the aboveprescribed regulations are to provide for the consideration of applications for discretionary benefits during the deportation hearing.

This order shall become effective on January 22, 1962.

Dated: December 14, 1961.

J. M. SWING, Commissioner of Immigration and Naturalization.

[F.R. Doc. 61-12021; Filed, Dec. 18, 1961; 8:49 a.m.]

# Title 14—AERONAUTICS AND SPACE

Chapter II—Civil Aeronautics Board [Docket No. 13039; Order No. E-17839]

### PART 288—EXEMPTION OF AIR CAR-RIERS FOR SHORT NOTICE MILI-TARY CONTRACTS

Order Denying Motion for Stay and Petition for Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of December 1961.

On December 11, 1961, Riddle Airlines, Inc. (Riddle) filed a motion for stay of Amendment 1 to Part 288 of the Economic Regulations (14 CFR Part 288; ER-342, 26 F.R. 11483), whose effective date is December 15, 1961, and a petition for reconsideration thereof, insofar as such Amendment would permit calculation of the charges for transportation from Travis Air Force Base, California, to Tachikawa, Japan, via Anchorage, Alaska, for flights actually taking the mid-Pacific route via Honolulu, Hawaii.

It appearing to the Board, upon consideration of Riddle's motion and petition, that these documents do not set forth sufficient facts and reasons to justify the relief requested,

It is ordered, That the aforesaid Motion and Petition be, and they hereby are denied.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, Secretary.

[F.R. Doc. 61-12010; Filed, Dec. 18, 1961; 8:49 a.m.]

# Title 16—COMMERCIAL **PRACTICES**

Chapter I—Federal Trade Commission [Docket 8437 c.o.]

### PART 13-PROHIBITED TRADE PRACTICES

20th Century Varieties, Inc., et al.

Subpart-Advertising falsely or misleadingly: § 13.235 Source or origin: § 13.235-60 Place: § 13.235-60(e) Imported products or parts as domestic. Subpart—Concealing, obliterating or removing law required and informative marking: § 13.510 Foreign source. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1900 Source or origin: § 13.1900-35 Foreign product as domestic.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, 20th Century Varieties, Inc., et al., Bronx, N.Y., Docket 8437, Sept. 21, 1961]

In the Matter of 20th Century Varieties, Inc., a Corporation, and Benjamin Rothberg and Samuel Lambert, Individually and as Officers of Said Cor-

Consent order requiring a toy distributor in Bronx, N.Y., to cease such practices as selling toy handcuffs and goggles manufactured in Japan on cards stating "Made in U.S.A.", etc., and hid-ing the marking "Japan" on the articles by the method of packaging; and to disclose clearly the foreign origin of other toys such as plastic binoculars and whistles, which bore the names "Hong Kong" and "Japan", but in very small, raised letters of the same color as the items so as to be almost completely indistinguishable.

The order to cease and desist is as follows:

It is ordered, That respondents, 20th Century Varieties, Inc., a corporation, and its officers and Benjamin Rothberg and Samuel Lambert, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of toys or any other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, in advertising or in labeling that products manufactured in Japan or any other foreign country are manufactured in the United States;

2. Offering for sale or selling products which are, in whole or in substantial part, of foreign origin, without clearly and conspicuously disclosing on such products, and if the products are enclosed in a package or carton, on said package or carton, in such a manner that it will not be hidden or obliterated, the country of origin thereof.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: September 21, 1961.

By the Commission.

JOSEPH W. SHEA. Secretary.

[F.R. Doc. 61-11975; Filed, Dec. 18, 1961; 8:46 a.m.]

[Docket 8439 c.o.]

### PART 13-PROHIBITED TRADE PRACTICES

Winkelman Bros. Apparel, Inc.

Subpart—Invoicing products falsely: § 13.1108 Invoicing products falsely: § 13.1108-45 Fur Products Labeling Act. Subpart-Misbranding or mislabeling: § 13.1212 Formal regulatory and statutory requirements: § 13.1212-30 Fur Products Labeling Act. Subpart-Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 Composition: § 13.1845-30 Fur Products Labeling Act; § 13.1852 Formal regulatory and statutory requirements: § 13.1852-35 Fur Products Labeling Act; § 13.1865— Manufacture or preparation: § 13.1865— 40 Fur Products Labeling Act; § 13.1900 Source or origin: § 13.1900-40 Fur Prod-Act: § 13.1900-40(a) ucts Labeling Maker or seller: § 13.1900-40(b) Place.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Winkelman Bros. Apparel, Inc., Detroit, Mich., Docket 8439, Sept. 21, 1961]

Consent order requiring a Detroit furrier to cease violating the Fur Products Labeling Act by failing, on labels and invoices and in newspaper advertising, to show the true animal name of the fur used in a fur product and to disclose when fur in a fur product was dyed; failing, in labeling and advertising, to disclose the country of origin of imported furs; failing to show a qualified name or registered identification number on labels; and failing in other respects to comply with labeling and invoicing requirements.

The order to cease and desist is as follows:

It is ordered, That Winkelman Brothers Apparel, Inc., a corporation, and its officers and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce of fur products, or in connection with the sale, advertising, offering for sale, transportation, or distribution of fur products which are made in whole or in part of fur which has been shipped

and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

A. Failing to affix labels to fur products showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

B. Setting forth on labels affixed to fur products the name or names of any animal or animals other than the name or names provided for in section 4(2)(A) of the Fur Products Labeling Act.

C. Setting forth on labels affixed to

fur products:

(1) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder mingled with non-required information.

(2) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in handwriting.

D. Affixing to fur products labels that do not comply with the minimum size requirements of one and three-quarter inches by two and three-quarter inches.

E. Failing to set forth separately on labels affixed to fur products composed of two or more sections containing different animal furs the information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder with respect to the fur comprising each sec-

F. Failing to set forth the item number or mark assigned to a fur product.

2. Falsely or deceptively invoicing fur products by:

A. Failing to furnish invoices to purchasers of fur products showing all the information required to be disclosed by each of the subsections of section 5(b) (1) of the Fur Products Labeling Act.

B. Setting forth information required under section 5(b) (1) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder abbreviated form.

3. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote or assist, directly or indirectly, in the sale, or offering for sale of fur products, and which:

A. Fails to disclose:

(1) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations.

(2) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is

(3) The name of the country of origin of any imported furs contained in a fur product.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered. That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: September 21, 1961.

By the Commission.

JOSEPH W. SHEA. Secretary.

[F.R. Doc. 61-11976; Filed, Dec. 18, 1961; 8:46 a.m.]

# Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Housing and Home Finance Agency

### MISCELLANEOUS AMENDMENTS TO CHAPTER

The following miscellaneous amendments have been made to this chapter:

SUBCHAPTER F-URBAN RENEWAL HOUSING INSURANCE AND INSURED IMPROVEMENT

### PART 220—URBAN RENEWAL MORT-GAGE INSURANCE AND INSURED IMPROVEMENT LOANS

In Part 220 Subpart B is revised to read as follows:

### Subpart B-Contract Rights and Obligations—Homes

220 251

Incorporation by reference. 220.252

Forbearance of foreclosure and assignment of mortgage.

220,253 Application for insurance benefits

and accompanying fiscal data. 220.275 Payment of insurance benefits.

### INSURED HOME IMPROVEMENT LOANS

Incorporation by reference. 220.350

Claim application and items to be 220.355

filed.

220.360 Claim computation; items included. 220.365 Claim computation; items deducted.

220.450 Effective date.

AUTHORITY: §§ 220.251 to 220.450 issued under sec. 211, 52 Stat. 23, as amended, sec. 220, 68 Stat. 596, as amended; 12 U.S.C. 1715b, 1715k.

### § 220.251 Incorporation by reference.

(a) All of the provisions of Subpart B, Part 203 of this chapter covering mortgages insured under section 203 of the National Housing Act apply to mortgages covering one- to eleven-family dwellings insured under section 220 of the National Housing Act except the following provisions:

Sec

203.340 Conditions of special forbearance

relief.

203.341 Reimbursement for uncollected interest.

203.350 Assignment of defaulted mortgage in general.

203.351 Application for debentures and fiscal data.

203.352 Title evidence upon assignment.

Sec. 203.353 Certification by mortgagee.

Delivery of debentures. 203.400 203.402 Debenture computation—conveyed

properties; items included. 203,405 Debenture interest rate. 203.406

Maturity of debentures. Registration of debentures. 203.407 Denomination of debentures. 203.408

203.409 Redemption of debentures. 203,410 Issue date of debentures.

203.411 Cash adjustment.

Nature of Mutual Mortgage Insur-203.420 ance Fund.

203.421 Allocation of Mutual Mortgage Insurance Fund income or loss 203 422 Right and liability under Mutual

Mortgage Insurance Fund. 203.423 Distribution of distributive shares.

203.424 Maximum amount of distributive 203.425 Finality of determination.

203.435 Form of assignment to investing mortgagee.

(b) For the purpose of this subpart all references in Part 203 of this chapter to
(1) Section 203 of the Act shall be

construed to refer to section 220 of the

(2) The Mutual Mortgage Insurance Fund shall be construed to refer to the section 220 Housing Insurance Fund; and

(3) Debentures shall be construed to refer to payments either in cash or debentures as prescribed in § 220.275.

### § 220.252 Forbearance of foreclosure and assignment of mortgage.

All of the provisions of §§ 203.340, 203.341, 203.350, 203.352, and 203.353 of this chapter shall apply to mortgages insured under this subpart except that the provisions relating to forbearance of foreclosure and assignment of a defaulted mortgage shall be applicable only to a mortgage covering a property having not more than four dwelling units.

#### § 220,253 Application for insurance benefits and accompanying fiscal data.

On the date the assignment of the mortgage is filed for record the mortgagee shall forward to the Commissioner the prescribed application for insurance benefits and the fiscal data pertaining to the mortgage transaction, together with receipts covering all disbursements as required by the fiscal data form, and other items as follows:

(a) Credit and security instruments. The original credit and security instruments assigned without recourse or warranty, except that no act or omission of the mortgagee shall have impaired the validity and priority of the mortgage;

(b) Recorded assignment instrument. The original of the recorded assignment of mortgage, and if the original of the assignment is not available, a copy shall be furnished and the original forwarded as

soon as possible;

(c) Hazard insurance. All hazard insurance policies held in connection with the mortgaged property, together with a copy of the mortgagee's notification to the carrier authorizing the amendment of the loss payable clause substituting the Commissioner as the mortgagee;

(d) Rights and interests. An assignment of all rights and interests arising under the mortgage, and all claims of the mortgagee against the mortgagor or others arising out of the mortgage transaction:

(e) Cash or property. All property held by the mortgagee or to which it is entitled and, if payment is requested in debentures, all cash held by the mortgagee or to which it is entitled, including deposits made for the account of the mortgagor and which have not been applied in reduction of the principal mortgage indebtedness;

(f) Records and accounts. records, ledger cards, documents, books, papers and accounts relating to the

mortgage transaction;

(g) Additional information. Any additional information or data which the Commissioner may require.

### § 220.275 Payment of insurance benefits.

(a) Method of payment. If the application for insurance benefits is acceptable to the Commissioner, payment of claim shall be made in the following manner:

(1) Payment in cash. Unless a written request for payment in debentures is filed with the application, payment shall be made in cash of the Section 220 Hous-

ing Insurance Fund.

(2) Optional payment in debentures.

Payment shall be made in debentures of the Section 220 Housing Insurance Fund upon filing a written request with the application.

(b) Special provisions—payment in cash. Where payment is made in cash:

(1) All of the provisions of § 203.402 of this chapter, with the exception of paragraph (i), shall be applicable; and

(2) There shall be deducted from the cash payment the amount of all cash retained by the mortgagee or to which it is entitled, including deposits made for the account of the mortgagor and which have not been applied in reduction of the principal mortgage indebtedness.

(c) Special provision-payment in debentures. All of the provisions of §§ 203.405 through 203.411 of this chapter shall be applicable in connection with the payment in debentures of insurance benefits under this subpart.

### INSURED HOME IMPROVEMENT LOANS § 220.350 Incorporation by reference.

(a) All of the provisions of §§ 203.440 et seq. of this chapter covering insured home improvement loans under section 203(k) of the Act shall apply to home improvement loans on one- to fourfamily dwellings under section 220(h) of the Act except:

Sec. 203.476 Claim application and items to be filed.

Debenture claim computation. 203.478

203.479 Debenture interest rate.

203.481 Maturity of debentures. Registration of debentures. 203 482

Denomination of debentures. 203.483 Redemption of debentures. 203 484

Issue date of debentures.

203.487 Cash adjustment.

(b) For the purposes of this subpart, all references in §§ 203.440 et seq. to the section 203 Home Improvement Account shall be construed to refer to the section 220 Home Improvement Account.

# to be filed.

The claim for reimbursement on an insured loan shall be made upon an application form prescribed by the Commissioner. The application shall be accompanied by:

(a) The fiscal data pertaining to the loan transaction as required by the fiscal data form:

(b) Receipts covering all disbursements as required by the fiscal data

(c) The original note and the security held, assigned to the Commissioner without recourse or warranty, except that no act or omission of the lender shall have impaired the validity and priority of such security;

(d) Any hazard insurance policies held on property serving as security for the loan, together with a copy of the lender's notification to the carrier authorizing the amendment of the loss payable clause substituting the Commissioner as the holder of the security;

(e) The assignment to the Commissioner of all rights and interests arising under the loan, and all claims of the lender against the borrower or others arising out of the loan transaction;

(f) Any title evidence held by the

(g) All property of the borrower held by the lender or to which it is entitled and, if payment is requested in debentures, all cash held by the lender or to which it is entitled, including deposits made for the account of the borrower and which have not been applied in reduction of the principal loan indebted-

(h) Any additional information or data which the Commissioner may

### § 220.360 Claim computation, items included.

(a) Upon acceptable assignment of the note and security instruments, the Commissioner shall pay the lender an amount equal to the unpaid principal balance of the loan, plus:

(1) Any accrued interest due as of the date of execution of the assignment of the loan to the Commissioner;

(2) Any advances made previously under the provisions of the loan instrument and approved by the Commis-

(3) Reimbursement for such reasonable collection costs, court costs and attorney's fees as may be approved by the Commissioner;

(4) Reimbursement for premiums paid on any hazard insurance policies held on the property. .

(b) Method of payment. Payment of claim shall be made in the following

(1) Payment in cash. Unless a written request for payment in debentures is filed with the application, payment shall be made in cash of the section 220 Home Improvement Account.

(2) Optional payment in debentures. Payment shall be made in debentures of the section 220 Home Improvement Acthe application.

(c) Special provision—payment in debentures. All of the provisions of §§ 203.479 through 203.487 of this chapter shall be applicable in connection with the payment in debentures of insurance benefits under this subpart.

### § 220.365 Claim computation, items deducted.

If the lender is to receive payment in cash, there shall be deducted from the total of the added items in § 220.360 any cash held by the lender or to which it is entitled including deposits made for the account of the borrower and which have not been applied in reduction of the principal loan indebtedness.

### § 220.450 Effective date.

The provisions of this subpart are effective as to all loans and mortgages endorsed for insurance on or after July

In Part 220 in Subpart D the Table of Contents is amended by adding new §§ 220.830 through 220.842, and renumbering §§ 220.824 and 220.825 as §§ 220.850 and 220.851 respectively as

### Subpart D-Contract Rights and **Obligations—Projects**

220.830 Debenture interest rate. 220.832 Maturity of debentures. 220.834 Registration of debentures. 220.836 Denomination of debentures. 220.838 Redemption of debentures. 220 840 Issue date of debentures. 220.842 Cash adjustment. Assignment of insured loan. 220.850 220.851 Amendment of regulations.

Section 220.755 is amended to read as follows:

### § 220.755 Insurance benefits requirement.

(a) Payment in cash. All of the provisions of § 207.258 of this chapter shall govern the payment in cash of insurance benefits on mortgages, including mortgages endorsed for insurance on or after July 7, 1961, on the basis of commitments outstanding prior to July 7, 1961, except that the following items shall be held by the mortgagee and the total of such items shall be deducted from the cash settlement provided in § 220.760(a):

(1) Any balance of the mortgage loan not advanced to the mortgagor.

(2) Any cash held by the mortgagee or its agents or to which it is entitled, including deposits made for the account of the mortgagor, and which have not been applied in reduction of the principal of the mortgage indebtedness.

(3) All funds held by the mortgagee for the account of the mortgagor and which were received pursuant to any other agreement.

(b) Payment in debentures. The provisions of paragraph (a) of this section shall not be applicable where payment is made in debentures and the provisions of § 207.258 shall govern.

Section 220.760 is amended to read as

§ 220.355 Claim application and items count upon filing a written request with § 220.760 Payment of insurance benefits.

> (a) Payment in cash. All of the provisions of § 207.259 of this chapter shall govern the payment in cash of insurance benefits on mortgages, including mortgages endorsed for insurance on or after July 7, 1961, on the basis of commitments outstanding prior to July 7, 1961, except

> (1) In lieu of issuing debentures and making a cash adjustment, as provided in § 207.259 of this chapter, the Commissioner shall pay to the mortgagee in cash of the section 220 Housing Insurance Fund an amount equivalent to the total face amount of the debentures and the cash adjustment provided for in § 207.259 of this chapter.

(2) In computing the amount of the certificate of claim, the amount of the cash payment to the mortgagee, as provided in this paragraph, shall be substituted for the face value of the debentures and the cash adjustment paid to the mortgagee.

(b) Payment in debentures. In lieu of the cash payment provided in paragraph (a) of this section, mortgagees filing claim for insurance benefits may upon filing a written request with the application for the payment of insurance benefits, receive payment in debentures of the section 220 Housing Insurance Fund issued in accordance with the provisions of § 207.259 of this chapter.

In § 220.821 paragrpah (g) is amended to read as follows:

### § 220.821 Items to be filed on submitting claim.

\*

(g) Any property held by the lender or its agents or to which it is entitled and, if payment is requested in debentures, any cash held by the lender or its agents or to which it is entitled, including deposits made for the account of the borrower, and which have not been applied in reduction of the principal of the mortgage indebtedness;

Section 220.822 is amended to read as

### § 220.822 Claim computation; items included.

(a) Assignment of loan. Upon an acceptable assignment of the note and security instrument, the Commissioner shall pay the claim of the lender in an amount equal to the unpaid principal balance of the loan plus:

(1) Any accrued interest due as of the date of execution of the assignment of the loan to the Commissioner.

(2) Any advances approved by the Commissioner made previously by the lender under the provisions of the note or security instrument or instruments.

(3) Reimbursement for such reasonable collection costs, court costs, and attorney's fees as may be approved by the Commissioner.

(4) Reimbursement for premiums paid on any hazard insurance policies held on the property.

(b) Method of payment. Payment of claim shall be made in the following manner:

Unless a (1) Payment in cash. written request for payment in debentures is filed with the application, payment shall be made in cash of the section 220 Home Improvement Account.

(2) Optional payment in debentures. Payment shall be made in debentures of the section 220 Home Improvement Account upon filing a written request with the application.

In § 220.823 the introductory text is amended to read as follows:

### § 220.823 Claim computation; items deducted.

If the lender is to receive payment in cash, there shall be deducted from the total of the added items in § 220.822 the following:

In Part 220 new §§ 220.830 through 220.842 are added as follows:

### § 220.830 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semi-annually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date the loan was endorsed for insurance, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate	On or	after—	Prior to—		
Percent 334	July Jan.	1, 1961 1, 1962	Jan.	1, 1962	

### § 220.832 Maturity of debentures.

the date of issue.

### § 220.834 Registration of debentures.

Debentures shall be registered as to principal and interest.

Debentures shall mature 10 years from

### § 220.836 Denomination of debentures.

Debentures are available in denominations of \$50, \$100, \$500, \$1,000, \$5,000, and \$10,000. The Commissioner shall issue debentures in the largest available denominations unless otherwise requested by the lender.

### § 220.838 Redemption of debentures.

Debentures shall, at the option of the Commissioner and with the approval of the Secretary of the Treasury, be redeemed at par and accrued interest on any interest payment day on three months' notice of redemption given in such manner as the Commissioner shall prescribe.

### § 220.840 Issue date of debentures.

The debentures shall be issued as of the date of the execution of the assignment of the loan to the Commissioner.

### § 220.842 Cash adjustment.

Any difference of less than \$50 between the amount of debentures to be issued to the lender and the total amount of the lender's claim, as approved by the Commissioner, shall be adjusted by the issuance of a check in payment thereof.

In Part 220 former §§ 220.824 and 220.825 are redesignated as §§ 220.850 and 220.851 respectively and the new § 220.851 is amended as follows:

### § 220.850 Assignment of insured loans. § 220.851 Amendment of regulations.

The regulations in this subpart may be amended by the Commissioner at any time and from time to time, in whole or in part, but such amendment shall not adversely affect the interests of a mortgagee or lender under the contract of insurance on any mortgage or loan already insured or to be insured on which the Commissioner has made a commitment to insure.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 220, 68 Stat. 596, as amended; 12 U.S.C. 1715k)

SUBCHAPTER G-HOUSING FOR MODERATE INCOME AND DISPLACED FAMILIES

### PART 221—LOW COST AND MODER-ATE INCOME MORTGAGE INSUR-ANCE

In Part 221 Subpart B is revised to read as follows:

### Subpart B-Contract Rights and **Obligations—Low Cost Homes**

221.251 Incorporation by reference. Application for insurance benefits 221.253 and accompanying fiscal data. 221 255 Assignment option.

Application for insurance benefits 221.261 and accompanying fiscal data.

221.275 Payment of insurance benefits.

221.450 Effective date.

AUTHORITY: §§ 221.251 to 221.450 issued under sec. 211, 52 Stat. 23, as amended, sec. 221, 68 Stat. 599, as amended; 12 U.S.C. 1715b, 1715l.

### § 221.251 Incorporation by reference.

(a) All of the provisions of Subpart B, Part 203 of this chapter covering mortgages insured under section 203 of the National Housing Act apply to mortgages covering one- to four-family dwellings insured under section 221 of the National Housing Act except the following provisions:

Sec 203.351 Application for debentures and fis-203,400 Delivery of debentures. 203.402 Debenture computation—conveyed properties; items included. 203.405 Debenture interest rate. 203.406 Maturity of debentures. 203.407 Registration of debentures.

Denomination of debentures. 203.408 203,409 Redemption of debentures.

203 410 Issue date of debentures. Cash adjustment 203.411

mortgagee.

Nature of Mutual Mortgage Insur-203.420 ance Fund. Allocation of Mutual Mortgage In-203.421

surance Fund income or loss Right and liability under Mutual Mortgage Insurance Fund. 203.422 203.423 Distribution of distributive shares.

Maximum amount of distributive 203.424 203.425 Finality of determination. Form of assignment to investing 203.435

(b) For the purpose of this subpart all references in Part 203 of this chap-

(1) Section 203 of the Act shall be construed to refer to section 221 of the Act:

(2) The Mutual Mortgage Insurance Fund shall be construed to refer to the section 221 Housing Insurance Fund;

(3) Debentures shall be construed to refer to payments either in cash or debentures as prescribed in § 221.275.

### § 221.253 Application for insurance benefits and accompanying fiscal data.

On the date the assignment of the mortgage is filed for record the mortgagee shall forward to the Commissioner the prescribed application for insurance benefits and fiscal data pertaining to the mortgage transaction, together with receipts covering all disbursements, as required by the fiscal data form and other items as follows:

(a) Credit and security instruments. The original credit and security instruments assigned without recourse or warranty, except that no act or omission of the mortgagee shall have impaired the validity and priority of the mortgage;

(b) Recorded assignment instrument. The original of the recorded assignment of mortgage, and if the original of the assignment is not available, a copy shall be furnished and the original forwarded as soon as possible;

(c) Hazard insurance. All hazard insurance policies held in connection with the mortgaged property, together with a copy of the mortgagee's notification to the carrier authorizing the amendment of the loss payable clause substituting the Commissioner as the mortgagee;

(d) Rights and interests. An assignment of all rights and interests arising under the mortgage, and all claims of the mortgagee against the mortgagor or others arising out of the mortgage transaction;

All property (e) Cash or property. held by the mortgagee or to which it is entitled and if payment is requested in debentures, all cash held by the mortgagee or to which it is entitled, including deposits made for the account of the mortgagor and which have not been applied in reduction of the principal mortgage indebtedness;

(f) Records and accounts. All records, ledger cards, documents, books, papers and accounts relating to the

mortgage transaction; (g) Additional information. Any additional information or data which the Commissioner may require.

### § 221.255 Assignment option.

(a) The mortgagee has the option to assign, transfer and deliver to the Commissioner the original credit instrument and the insured mortgage securing the same, provided such mortgage is not in default at the expiration of 20 years from the date it was endorsed for insurance. When such option has been exercised, the obligation of the mortgagee

to pay the premium charges shall cease.
(b) The mortgagee may exercise its assignment option within 1 year following the twentieth anniversary of the date the mortgage was endorsed for insurance.

(c) Upon the exercise of the assignment option the Commissioner shall issue to the assignor mortgagee debentures having a total face value equal to the amount of the original principal obligation of the mortgage which was unpaid on the date of the assignment, plus accrued interest to such date.

(d) The debentures issued pursuant to the exercise of an assignment option shall be dated as of the date the mortgage is assigned to the Commissioner and shall mature 10 years after such

date.

- (e) The debentures issued pursuant to the exercise of an assignment option shall bear interest at the "going Federal rate" at date of issuance. The "going Federal rate" means the annual rate of interest specified by the Secretary of the Treasury as applicable to the 6month period which includes the issuance date of the debentures. The Secretary of the Treasury shall determine this applicable rate by estimating the average yield to maturity, on the basis of daily closing market bid quotations or prices during the month of May or the month of November, as the case may be, next preceding such 6-month period, on all outstanding marketable obligations of the United States having a maturity date of 8 to 12 years from the first day of May or November, as the case may be. If there should be no outstanding marketable obligations of the United States having the 8 to 12 year maturity at the time the Secretary of the Treasury is required to determine the debenture rate involved, the obligation next shorter than 8 years and the obligation next longer than 12 years respectively, shall be used.
- (f) Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect on the issue date, a date which shall be established as provided in § 203.-410 of this chapter. The interest rate shall be established by the Commissioner in an amount not in excess of the annual rate of interest which the Secretary of the Treasury shall specify as applicable to the 6-month period (consisting of January through June, or July through December) which includes the issuance date of such debentures, which applicable rate for each 6-month period shall be determined by the Secretary of the Treasury, at the request of the Commissioner, by estimating the average yield to maturity, on the basis of daily closing market bit quotations or prices during the calendar month next preceding the establishment of such rate of interest, on all outstanding marketable obligations of the United States having a maturity date of 15 years or more from the first day of such next preceding month, and by adjusting such estimated average annual yield to the nearest oneeighth of 1 per centum.

### § 221.275 Payment of insurance benefits.

(a) Method of payment. If the application for insurance benefits is accept-No. 243-3

able to the Commissioner, payment of claim shall be made in the following manner:

(1) Payment in cash. Unless a written request for payment in debentures is filed with the application, payment shall be made in cash of the section 221 Housing Insurance Fund.

(2) Optional payment in debentures. Payment shall be made in debentures of the section 221 Housing Insurance Fund upon filing a written request with the application.

(b) Special provisions—payment in cash. Where payment is made in cash:

(1) All of the provisions of § 203.402 of this chapter, with the exception of paragraph (i), shall be applicable; and

(2) There shall be deducted from the cash payment the amount of all cash retained by the mortgagee or to which it is entitled, including deposits made for the account of the mortgagor and which have not been applied in reduction of the principal mortgage indebtedness.

(c) Special provision—payment in debentures. All of the provisions of §§ 203.-405 through 203.411 of this chapter shall be applicable in connection with the payment in debentures of insurance benefits

under this subpart.

### § 221.450 Effective date.

The provisions of this subpart are effective as to all loans and mortgages endorsed for insurance on or after July 7,

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 221, 68 Stat. 599, as amended; 12 U.S.C. 17151)

In Part 221 Subpart D there is added to the Table of Contents two new sections as follows:

### Subpart D-Contract Rights and Obligations-Moderate Income Projects

Sec. 221.762 Insurance benefits requirement. Payment of insurance-market in-221.766 terest rate.

In Part 221 there is added a new § 221.762 as follows:

### § 221.762 Insurance benefits requirement.

(a) Payment in cash. All of the provisions of § 207.258 of this chapter shall govern the payment in cash of insurance benefits on mortgages, including mortgages endorsed for insurance on or after July 7, 1961, on the basis of commitments outstanding prior to July 7, 1961, except that the following items shall be held by the mortgagee and the total of such items shall be deducted from the cash settlement provided in § 220.760(a) of this chapter:

(1) Any balance of the mortgage loan not advanced to the mortgagor;

(2) Any cash held by the mortgagee or its agents or to which it is entitled. including deposits made for the account of the mortgagor, and which have not been applied in reduction of the principal of the mortgage indebtedness; and

(3) All funds held by the mortgagee for the account of the mortgagor and which were received pursuant to any other agreement.

(b) Payment in debentures. The provisions of paragraph (a) of this section shall not be applicable where payment is made in debentures and the provisions of § 207.258 of this chapter shall govern.

Section 221.765 is amended to read as follows:

### § 221.765 Payment of insurance—special interest rate.

In the case of a mortgage bearing interest at the rate provided in § 221.518 (b), all of the provisions of § 207.259 of this chapter shall govern the payment of insurance, except that when the mortgagee elects to proceed in accordance with § 207.258(1)(1) of this chapter, the computation of the total face value of the debentures to be issued shall be determined by adding to the original principal of the mortgage which was unpaid on the date of default; any amount the mortgagee may have paid for taxes, special assessments and water rates which are liens prior to the mortgage; any amount for hazard insurance on the property; and reasonable expenses for the completion and preservation of the property; less any amount received on account of the mortgage after such date, and any net income received by the mortgagee from the property after such date.

In Part 221 there is added a new § 221.766 as follows:

### § 221.766 Payment of insurance—market interest rate.

(a) Payment in cash. In the case of mortgages bearing interest at other than the rate provided in § 221.518(b), including mortgages endorsed for insurance on or after July 7, 1961 on the basis of commitments outstanding prior to July 7, 1961, all of the provisions of § 207.259 of this chapter shall govern the payment of insurance benefits on such mortgages, except that:

(1) In lieu of issuing debentures and making a cash adjustment, as provided in § 207.259, of the chapter, the Commissioner shall pay to the mortgagee in cash of the section 221 Housing Insurance Fund an amount equivalent to the total face amount of the debentures and the cash adjustment provided for in § 207.259; and

(2) In computing the amount of the certificate of claim, the amount of the cash payment to the mortgagee, as provided in this paragraph shall be substituted for the face value of the debentures and the cash adjustment paid to the mortgagee.

(b) Payment in debentures. In lieu of the cash payment provided in paragraph (a), mortgagees filing claim for insurance benefits may upon filing a written request with the application for the payment of insurance benefits, receive payment in debentures of the section 221 Housing Insurance Fund issued in accordance with the provisions of § 207.259 of this chapter.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 221, 68 Stat. 599, as amended; 12 U.S.C. 17151)

#### SUBCHAPTER K-EXPERIMENTAL HOUSING INSURANCE

### PART 233—EXPERIMENTAL HOUSING MORTGAGE INSURANCE

In Part 233 Subpart B is revised to read as follows:

### Subpart B-Contract Rights and Obligations—Homes

233.251

Incorporation by reference.
Application for insurance benefits 233.253 and accompanying fiscal data.

233 275 Payment of insurance benefits.

233.450 Effective date.

AUTHORITY: §§ 233.251 to 233.350 issued under sec. 211, 52 Stat. 23, sec. 233, 75 Stat. 158; 12 U.S.C. 1715b.

### § 233.251 Incorporation by reference.

(a) All of the provisions of Subpart B, Part 203 of this chapter covering mortgages insured under section 203 of the National Housing Act apply to mortgages covering one- to four-family dwellings insured under section 233 of the National Housing Act except the following provisions:

Sec.	
203.351	Application for debentures and fis-
	cal data.
203.400	Delivery of debentures.
203.402	Debenture computation—conveyed
	properties; items included.
203.405	Debenture interest rate.
203.406	Maturity of debentures.
203.407	Registration of debentures.
203 408	Denomination of dehentures

203,409 Redemption of debentures. 203.410 Issue date of debentures.

Cash adjustment.

203.420 Nature of Mutual Mortgage Insurance Fund.

Allocation of Mutual Mortgage Insurance Fund income or loss. 203 421 203.422

Right and liability under Mutual Mortgage Insurance Fund. 203 423 Distribution of distributive shares. 203.424 Maximum amount of distributive

shares. 203.425 Finality of determination.

Form of assignment to investing 203,435 mortgagee.

Applicability to outstanding loans and commitments. 203.498

203.499 Effective date.

(b) For the purpose of this subpart all references in Part 203 of this chapter

(1) Section 203 of the Act shall be construed to refer to section 233 of the Act:

(2) The Mutual Mortgage Insurance Fund shall be construed to refer to the Experimental Housing Insurance Fund;

(3) Debentures shall be construed to refer to payments either in cash or debentures as prescribed in § 233.275.

#### § 233.253 Application for insurance benefits and accompanying fiscal data.

On the date the assignment of the mortgage is filed for record the mortgagee shall forward to the Commissioner the prescribed application for insurance benefits and fiscal data pertaining to the mortgage transaction, together with receipts covering all disbursements, as required by the fiscal data form and other items as follows:

(a) Credit and security instruments. The original credit and security instruments assigned without recourse or warranty, except that no act or omission of the mortgagee shall have impaired the validity and priority of the mortgage;

(b) Recorded assignment instrument. The original of the recorded assignment of the mortgage and, if the original of the assignment is not available, a copy shall be furnished and the original for-

warded as soon as possible;

(c) Hazard insurance. All hazard insurance policies held in connection with the mortgaged property, together with a copy of the mortgagee's notification to the carrier authorizing the amendment of the loss payable clause substituting the Commissioner as the mortgagee:

(d) Rights and interests. An assignment of all rights and interests arising under the mortgage, and all claims of the mortgagee against the mortgagor or others arising out of the mortgage

transaction;

(e) Cash or property. All property held by the mortgagee or to which it is entitled and, if payment is requested in debentures, all cash held by the mortgagee or to which it is entitled, including deposits made for the account of the mortgagor and which have not been applied in reduction of the principal mortgage indebtedness:

(f) Records and accounts. All records, ledger cards, documents, books, papers and accounts relating to the

mortgage transaction: and

(g) Additional information. Any additional information or data which the Commissioner may require.

### § 233.275 Payment of insurance benefits.

(a) Method of payment. If the application for insurance benefits is acceptable to the Commissioner, payment of claim shall be made in the following manner:

(1) Payment in cash. Unless a written request for payment in debentures is filed with the application, payment shall be made in cash of the Experimental

Housing Insurance Fund.

(2) Optional payment in debentures. Payment shall be made in debentures of the Experimental Housing Insurance Fund, upon filing a written request with

the application.

(b) Special provisions—payment in cash. Where payment is made in cash: (1) All of the provisions of § 203.402 of this chapter, with the exception of paragraph (i), shall be applicable; and (2) There shall be deducted from the cash payment the amount of all cash retained by the mortgagee or to which it is entitled, including deposits made for the account of the mortgagor and which have not been applied in reduction of the principal mortgage indebtedness.

(c) Special provision—payment in debentures. All of the provisions of §§ 203.405 through 203.411 of this chapter shall be applicable in connection with the payment in debentures of insurance benefits under this subpart.

### § 233.450 Effective date.

Unless otherwise specified, the provisions of this subpart shall be effective as to all mortgages with respect to which a commitment to insure is issued on or after July 7, 1961.

### Subpart D-Contract Rights and **Obligations**

Section 233.755 is amended to read as follows:

§ 233.755 Insurance benefits require-

(a) Payment in cash. All of the provisions of § 207.258 of this chapter shall govern the payment in cash of insurance benefits on mortgages except that the following items shall be held by the mortgagee and the total of such items shall be deducted from the cash settlement provided in § 220.760(a) of this chapter:

(1) Any balance of the mortgage loan not advanced to the mortgagor;

(2) Any cash held by the mortgagee or its agents or to which it is entitled. including deposits made for the account of the mortgagor, and which have not been applied in reduction of the principal of the mortgage indebtedness: and

(3) All funds held by the mortgagee for the account of the mortgagor and which were received pursuant to any

other agreement.

(b) Payment in debentures. The provisions of paragraph (a) of this section shall not be applicable where payment is made in debentures and the provisions of § 207.258 of this chapter shall govern.

Section 233.760 is amended to read as follows:

§ 233.760 Payment of insurance benefits.

(a) Payment in cash. All of the provisions of § 207.259 of this chapter shall govern the payment in cash of insurance benefits on mortgages, except that:

(1) In lieu of issuing debentures and making a cash adjustment as provided in § 207.259 of this chapter, the Commissioner shall pay to the mortgagee in cash of the Experimental Housing Insurance Fund an amount equivalent to the total face amount of the debentures and the cash adjustment provided for in § 207.259 of this chapter;

(2) In computing the amount of the certificate of claim, the amount of the cash payment to the mortgagee, as provided in this paragraph, shall be substituted for the face value of the debentures and the cash adjustment paid to the

mortgagee.

(b) Payment in debentures. of the cash payment provided in paragraph (a), mortgagees filing claim for insurance benefits may upon filing a written request with the application for the payment of insurance benefits, receive payment in debentures of the Experimental Housing Insurance Fund issued in accordance with the provisions of § 207.259 of this chapter.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 233, 75 Stat. 158; 12

U.S.C. 1715x)

Issued at Washington, D.C., December 13, 1961.

NEAL J. HARDY, Federal Housing Commissioner. [F.R. Doc. 61-12000; Filed, Dec. 18, 1961; 8:48 a.m.]

# Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy
SUBCHAPTER C—PERSONNEL

### PART 723—BOARD FOR CORRECTION OF NAVAL RECORDS 1

### Miscellaneous Amendments

1. The citation of authority is changed to read as follows:

AUTHORITY: §§ 723.1 to 723.11 issued under R.S. 161, secs. 1552, 5031, 70A Stat. 116, 278, as amended; 5 U.S.C. 22, 10 U.S.C. 1552, 5031

2. Section 723.1(b) is revised to read as follows:

### § 723.1 General provisions.

(b) Authority. Section 131 of the Legislative Reorganization Act of 1946 (2 U.S.C. 190g) provides that no private bill or resolution, and no amendment to any bill or resolution, authorizing or directing the correction of military or naval records, shall be received or considered in either the Senate or the House of Representatives. Section 207 of the same Act, as amended, and as re-enacted and codified in 10 U.S.C. 1552, provides:

(a) The Secretary of a military department, under procedures established by him and approved by the Secretary of Defense, and acting through boards of civilians of the executive part of that military department, may correct any military record of that department when he considers it necessary to correct an error or remove an injustice. Under procedures prescribed by him, the Secretary of the Treasury may in the same manner correct any military record of the Coast Guard. Except when procured by fraud, a correction under this section is final and conclusive on all officers of the United States.

(b) No correction may be made under subsection (a) unless the claimant or his heir or legal representative files a request therefor before October 26, 1961, or within three years after he discovers the error or injustice, whichever is later. However, a board established under subsection (a) may excuse a failure to file within three years after discovery if it finds it to be in the interest of justice.

(c) The department concerned may pay, from applicable current appropriations, a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, if, as a result of correcting a record under this section, the amount is found to be due the claimant on account of his or another's service in the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be. If the claimant is dead, the money shall be paid, upon demand, to his legal representative. However, if no demand for payment is made by a legal representative, the money shall be paid.—

(1) To the surviving spouse, heir, or beneficiaries, in the order prescribed by the law applicable to that kind of payment;

(2) If there is no such law covering order of payment, in the order set forth in section 2771 of this title; or

(3) As otherwise prescribed by the law applicable to that kind of payment.

A claimant's acceptance of a settlement under this section fully satisfies the claim concerned. This section does not authorize the payment of any claim compensated by private law before October 25, 1951.

(d) Applicable current appropriations are available to continue the pay, allowances, compensation, emoluments, and other pecuniary benefits of any person who was paid under subsection (c), and who, because of the correction of his military record, is entitled to those benefits, but for not longer than one year after the date when his record is corrected under this section if he is not reenlisted in, or appointed or reappointed to, the grade to which those payments relate. Without regard to qualifications for reenlistment, or appointment or reappointment, the Secretary concerned may reenlist a person in, or appoint or reappoint him to, the grade to which payments under this section relate.

(e) No payment may be made under this section for a benefit to which the claimant might later become entitled under the laws and regulations administered by the Administrator of Veterans' Affairs.

3. Section 723.2(a) is revised to read as follows:

# § 723.2 Establishment, function, and jurisdiction of the Board.

(a) Establishment and composition. Pursuant to the foregoing statutory authority, the Board for Correction of Naval Records is established in the Office of the Secretary of the Navy. The Board consists of civilians of the executive part of the Department of the Navy in such number, not less than three, as may be appointed by the Secretary of the Navy. Three members present shall constitute a quorum of the Board. The Secretary of the Navy will designate one member as Chairman. In the absence or incapacity of the Chairman, an Acting Chairman chosen by the Board shall act as Chairman for all purposes.

4. Section 723.3 (a) (1), (b), (c), and (e) is revised to read as follows:

### § 723.3 Application for correction.

(a) General requirements. (1) The application for correction should be submitted on DD Form 149 (Application for Correction of Military or Naval Record) or exact facsimile thereof, and should be addressed to: The Secretary of the Navy (Board for Correction of Naval Records), Washington 25, D.C. Forms and explanatory matter may be obtained from: Board for Correction of Naval Records, Navy Department, Washington 25, D.C.

(b) Time limit for filing application. A claimant, his heir, or legal representative, must file the application for correction of a record with the Secretary of the Navy within three years after discovery of the alleged error or injustice. Failure to file within the time prescribed may be excused by the Board if it finds it would be in the interest of justice to do so. If the claimant, his heir or legal representative files an application more than three years after he discovers the error or injustice, he must include in his application his reasons why the Board should find it is in the interest of justice to excuse his failure to file his application within the time prescribed in this paragraph.

(c) Exhaustion of other remedies. No application will be considered until the applicant has exhausted all effective administrative remedies afforded him by existing law or regulations, and such legal remedies as the Board shall determine are practical and appropriately available to the applicant.

(e) Review of application. Each application and the available military or naval records pertinent to the corrective action requested will be reviewed to determine whether to authorize a hearing or to deny the application without a hearing. The Board will make this determination in all cases except those in which the application has been denied administratively for the reason that the applicant has not exhausted all other effective administrative remedies available to him or for the reason that the applicant did not file his application within three years after he discovered the alleged error or injustice and did not submit any reason why the Board should find it to be in the interest of justice to excuse his failure to file the application within the prescribed three years. In connection with any application which it considers, the Board may recommend to the Secretary that the records be corrected, as requested by the applicant, without a hearing. The Board may deny an application if it determines that insufficient evidence has been presented to indicate probable material error or injustice, that the applicant has not exhausted other effective administrative or legal remedies available to him that effective relief cannot be granted, or that the applicant did not file his application within three years after he discovered the alleged error or injustice and that insufficient evidence has been presented to warrant a finding that it would be in the interest of justice to excuse the failure to file within the prescribed three years. The Board will not deny an application on the sole ground that the record or records involved were made by or by direction of the President or the Secretary in connection with proceedings other than proceedings of a board for correction of military or naval records. If the application is denied, the applicant will be advised of the denial and that he is privileged to submit new and material evidence for consideration.

5. Section 723.4(c) is revised to read as follows:

# § 723.4 Entitlement to hearing; notice, counsel; witnesses; access to records.

(c) Counsel, definition of. As used in this part, the term "counsel" will be construed to include members in good standing of the Federal Bar or the Bar of any State, accredited representatives of veterans organizations recognized by the Administrator of Veterans' Affairs under Title 38, U.S. Code, Sec. 3402, and such other persons who, in the opinion of the Board, are considered to be competent to present equitably and comprehensively the request of the applicant for correction, unless barred by law.

<sup>&</sup>lt;sup>1</sup>Part heading formerly read "Board for the Correction of Naval Records." The word "the" is being omitted as it is not part of the official designation.

6. Section 723.8(e) is revised to read as follows:

§ 723.8 Staff action.

(e) After the Secretary of the Navy has taken action on the record, the applicant or his counsel is entitled upon request to inspect the Record of Proceedings and to receive a copy of the Board's findings, decision, and recommendations, unless the Chairman considers that granting the request would be detrimental to the public interest.

7. Section 723.10 (a) (1) and (b) (2) is revised to read as follows and § 723.10(d) (2) is deleted:

### § 723.10 Settlement of claims.

(a) Authority. (1) The Department of the Navy is authorized to pay claims in accordance with 10 U.S. Code 1552, which is quoted in § 723.1(b).

(b) Application for settlement. \* \* \*

(2) In case the person whose record has been corrected is deceased, and where no demand is presented by a duly appointed legal representative of the estate, payments otherwise due shall be made to the surviving spouse, heir or beneficiaries, in the order prescribed by the law applicable to that kind of payment; or if there is no such law covering order of payment, in the order set forth in 10 U.S. Code 2771; or as otherwise prescribed by the law applicable to that kind of payment.

8. Section 723.11 is amended by adding the following paragraph (d)

§ 723.11 Miscellaneous.

(d) Publication in the "Federal Register." These regulations and any amendments thereto will be published in the FEDERAL REGISTER.

By direction of the Secretary of the Navy.

[SEAL] ROBERT D. POWERS, Jr., Rear Admiral, U.S. Navy, Acting Judge Advocate General of the Navy.

DECEMBER 13, 1961.

[F.R. Doc. 61-11980; Filed, Dec. 18, 1961; 8:47 a.m.]

# Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter III—Corps of Engineers, Department of the Army

PART 311—PUBLIC USE OF CERTAIN
RESERVOIR AREAS

Terminus and Hartwell Reservoir
Projects

The Secretary of the Army having determined that the use of Terminus Reservoir Area, Kaweah River, California, and Hartwell Reservoir Area, Savannah River, Georgia and South Carolina, by the general public for boating, swimming, bathing, fishing and other

recreational purposes will not be contrary to the public interest and will not be inconsistent with the operation and maintenance of the reservoirs for their primary purposes, hereby prescribes rules and regulations for their public use, pursuant to the provisions of section 209 of the Flood Control Act of 1954 (68 Stat. 1266), adding them to § 311.1, as follows:

§ 311.1 Areas covered.

CALIFORNIA

TERMINUS RESERVOIR AREA, KAWEAH RIVER

GEORGIA

HARTWELL RESERVOIR, SAVANNAH RIVER

SOUTH CAROLINA

. .

HARTWELL RESERVOIR, SAVANNAH RIVER

[Regs., November 29, 1961, ENGCW-OM] (Sec. 4, 58 Stat. 889, as amended; 16 U.S.C. 460d)

J. C. LAMBERT,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 61-11970; Filed, Dec. 18, 1961; 8:45 a.m.]

### Title 39—POSTAL SERVICE

Chapter I—Post Office Department
PART 2—DOMESTIC MAIL SERVICE

PART 4—INFORMATION ON POSTAL MATTERS

PART 15-MATTER MAILABLE UNDER SPECIAL RULES

PART 41—SERVICE IN POST OFFICES

PART 42—WHO MAY CARRY LETTERS

PART 44—CONDITIONS OF DELIVERY

### Miscellaneous Amendments

The regulations of the Post Office Department are amended as follows:

I. In Part 2, as published in 26 F.R. 11513, insert "Commonwealth of" immediately following "Puerto Rico" where it appears in the alphabetical listing of places therein.

Note: The corresponding Postal Manual part is 112.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501)

II. In Part 4 as published in 26 F.R. 11513-11515, make the following changes:

### § 4.2 [Amendment]

A. In § 4.2 General postal publications, make the following changes:

 Add to the first publication entitled "Postal Manual" the following: Postal Manual. \* \* \*
Chapters 3, Postal Procedure, and
7, Personnel\_\_\_\_\_\_\_\$3.50

2. Delete the publication entitled "Postal Service News" and the accompanying data where it appears therein,

\*1 00

3. Amend the publication entitled "Cost Ascertainment Report 1959" by (1) striking out "1959" where it appears in the title and in the accompanying data and inserting in lieu thereof "1960"; and (2) amending the price of the publication to read "\$1.00."

4. Under the publication entitled "First-Class Post Offices With Named Stations and Branches" amend the last sentence to read: "Prepared for use in mailing parcel post."

5. Opposite the publication entitled "Postal Laws" strike out "Varies with each issue" and insert in lieu thereof the price of "\$1.25."

6. Amend the publication entitled "County List of Post Offices" to read as follows:

County List of Post Offices\_\_\_\_\_ \$0.50

Lists of all post offices alphabetically by counties within States. Shows number of rural mailboxes served from post offices, number of boxes at those post offices that do not have city carrier service, and other pertinent information.

Note: The corresponding Postal Manual section is 114.2.

B. In § 4.3, paragraph (d) is amended to show that the release of certain changes of address information to Red Cross officials is permitted in times of natural disasters. As so amended, paragraph (d) reads as follows:

# § 4.3 Privileged matter.

(d) Names and addresses of post office patrons and former patrons, except when correcting mailing lists or when furnishing changes of address to election boards or registration commissions as provided in § 13.5 of this chapter. Information on change of address orders may be revealed to the American Red Cross during times of natural disaster pursuant to § 4.5.

Note: The corresponding Postal Manual section is 114.3.

C. In § 4.4 paragraph (d) is amended to show the proper office for addressing inquiries on complying with subpenss duces tecum. As so amended, paragraph (d) reads as follows:

### § 4.4 Available records.

(d) Compliance with subpenss duces tecum. Postmasters and other postal employees will comply with a proper subpena duces tecum issued by a court of record only after consulting with and getting approval of the General Counsel of the Post Office Department. Postmasters and others will address inquiries to the Assistant General Counsel, Opinions Division. When employees are authorized to comply with subpenas duces tecum, they will not leave the records themselves with the court but will leave copies prepared for that purpose.

Note: The corresponding Postal Manual section is 114.44.

D. Add a new § 4.5 to read as follows:

# § 4.5 Cooperation with Red Cross during natural disasters.

(a) Application of these instructions. This section applies only to natural disasters such as those caused by floods, tornadoes, hurricanes, earthquakes, fires, explosions, etc., and not to those caused

by enemy action.

(b) Objective of instructions. Both the Post Office Department and the Red Cross realize the importance to the individual and the community of maintaining communication during times of disaster. These procedures will help maintain this essential communication.

(c) Action by the Red Cross. (1) The American National Red Cross is including Forms 3575, "Change of Address Order", as a standard item in its disaster supplies. The Red Cross has arranged to distribute these forms to disaster-displaced persons in all Red Cross field facilities concerned at times of natural disaster. The Red Cross chapter involved will deliver the completed forms to the proper post office for establishment of a postal locator file.

(2) The Red Cross has also included in its disaster supplies their Form 5263, "Safety Notification Card", which will be used by disaster-displaced persons to notify relatives and friends of the whereabouts and safety of the senders.

(3) The Red Cross has advised its 3,700 chapters of the instructions in this section and has urged them to include postmasters in their disaster preparedness planning. The Red Cross is responsible for disseminating necessary information on the procedures to disas-

ter-stricken areas.

(d) Action by the Post Office Department. (1) The post offices receiving completed Forms 3575 following a disaster will maintain them as a central locator file to provide directory service whereby mail may be promptly forwarded to individuals and families displaced by the disaster. Postmasters may make this information available to Red Cross disaster workers for use in locating individuals and families, but solely to answer inquiries from relatives and friends concerning the whereabouts, safety, and welfare of residents of the disaster community.

(2) Regional Directors and Postal Inspectors in Charge are responsible for seeing that the post offices concerned implement these cooperative arrangements in disaster situations. Postmasters are encouraged to participate in community and Red Cross disaster pre-

paredness planning.

(3) The instructions in this section serve as a broad framework within which field officials of both agencies may coordinate their facilities and resources. However, postal officials shall cooperate with Red Cross officials to the maximum feasible degree during times of natural disasters.

Note: The corresponding Postal Manual section is 114.5.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501)

III. In § 15.4, as published in 26 F.R. 11528, paragraph (c) is amended to include additional quarantine regulations of the States. As so amended, paragraph (c) reads as follows:

### § 15.4 Plant quarantines.

\* \*

(c) Terminal inspection for plants and plant products—(1) States and Territories requiring inspection. Packages containing plants and plant products addressed to Alabama, Arizona, Arkansas, California, District of Columbia, Florida, Hawaii, Idaho, Louisiana, Minnesota, Mississippi, Montana, Puerto Rico, Utah, and Washington must be examined by State inspectors at the places listed in § 15.4(e) (6). The packages must be plainly marked on the outside to show the exact nature of their contents.

(2) Addressee must pay additional postage. The addressee must pay postage to send the package to the inspection place and must arrange with the State plant inspector to pay postage to return the package to the office of address after

inspection.

(3) Packages addressed in care of State plant inspector. Packages may be addressed in care of a State plant inspector at a place other than where the addressee lives. The addressee must arrange for the inspector to pay postage to forward the package to the addressee after inspection. If the sender prints "Forwarding Postage Guaranteed" under the return address, the package may be forwarded by the inspector without prepayment of postage, and the amount due will be collected from the addressee when the package is delivered.

(4) Disposition of infected shipments. When the inspector finds that plants or plant products are infested or infected with injurious insects or diseases and are incapable of satisfactory treatment, or they are found to have been moved in violation of a plant quarantine law or regulation of the U.S. Department of Agriculture or of the State of destination pertaining to such injurious pests, parcels will be returned to the sender and payment of postage for return collected on delivery. If the sender has marked the parcel to be abandoned, if undelivered, the package will be turned over to State authorities for destruction.

(5) Information about quarantines. The States of Alabama, Arizona, Arkansas, California, Florida, Mississippi, Montana, and Washington have arranged for enforcement of some State quarantines, and when regulated plants or plant products are found to have been mailed in violation of quarantines, delivery may be withheld. Summaries of those quarantines may be obtained from the Plant Quarantine Division, Agricultural Research Service, U.S. Department of Agriculture, Washington 25, D.C., or see 7 CFR Chapter III.

(6) List of products and places of inspection—(i) Alabama. Plants and Plant Products Subject to Inspection—All sweet potato roots, tubers, plants and vines, and parts thereof, which are not accompanied by a valid certificate tag issued by the Alabama Department of

Agriculture and Industries; and other vines, trees, and shrubs, and cuttings and grafts thereof, and strawberry plants, which are not accompanied by a valid nursery inspection certificate of the State of origin.

Terminal inspection place—Birmingham.

(ii) Arizona. Plants and Plant Products Subject to Inspection—All florists' stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products for propagation, except vegetable and flower seeds.

Terminal inspection places:

Coolidge. Kingman.
Cottonwood. Parker.
Douglas. Phoenix.
Ehrenberg. Safford.
Fredonia. Solomon.
Globe. Tucson.
Holbrook. Yuma.

(At the following places inspection may be had upon call only.)

Bishee Lowell. Mesa. Bowie. Nogales. Casa Grande. Prescott. Chandler. Duncan. Tempe. Eloy. Flagstaff. Warran. Williams. Winslow. Florence. Glendale.

(iii) Arkansas. Plants and Plant Products Subject to Inspection—Sweet potatoes, sweet potato plants, vines, draws, and slips.

Note: Under a State quarantine on account of the sweet potato weevil, the articles named are prohibited entry into Arkansas unless accompanied by an inspection certificate issued by the State of origin showing the plants and plant products to be free of infestation. Parcels accompanied by a certificate will be delivered to the addresses without inspection. Parcels not accompanied with a certificate will be returned to the office of mailing endorsed: Unmailable—Not accompanied with required certificate. Postage will be collected for return.

(iv) California. Plants and Plant Products Subject to Inspection—All florists' stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products in the raw or unmanufactured state, and vegetable and flower seeds.

Terminal inspection places:

Blythe. Ager. Alameda Brawley. Bryn Mawr. Alturas. Anaheim. Burlingame. Calexico. Anderson. Antioch. Calipatria. Arbuckle Calistoga. Camarillo. Arlington. Carpinteria. Aromas. Chico. Arvin. Atascadero. Chino. Chowchilla. Auburn. Bakersfield. Clovis. Coachella. Banning. Colfax. Bard. Barstow. Colma. Beaumont. Colton. Belmont. Colusa. Concord. Berkelev. Corning. Bieber. Corona Biggs. Bloomington. Cucamonga.

Cutler. Daly City. Death Valley. Delano. Del Rosa. Diamond Springs. Dinuba. Dorris. Ducor. Earlimart. East Highlands. El Cajon. El Centro. El Dorado. Elsinore Escalon. Escondido. Etiwanda. Eureka. Exeter. Fairfax Fairfield. Farmersville. Fillmore. Fontana. Fort Bragg. Fowler. Fresno. Fullerton. Gazelle. Gilroy. Goshen. Gridley. Gustine. Half Moon Bay Hanford. Hayward. Healdsburg. Hemet Highland. Hollister. Hollywood. Holtville. Hopland. Hornbrook. Hueneme. Hughson. Imperial. Indio. Irvington. Ivanhoe. Jackson. Jamestown. Kelseyville. King City. Kingsburg. Lafayette. Lakeport. Le Grand. Lemon Cove. Lincoln. Lindsay. Livermore. Livingston. Lodi. Lompoc. Loomis. Los Angeles. Los Banos. Los Molinos. Madera. Manteca. Martinez. Marysville. McFarland. Menlo Park. Merced. Millbrae. Mill Valley. Mission San Jose. Modesto. Montalvo. Monterev. Moorpark. National City. Nevada City. Newman. Niles. Novato. Oakdale.

Oakland. Oceanside. Ojai. Ontario. Orange. Orland. Orosi. Oroville. Oxnard. Pacifica. Paradise. Paso Robles. Patterson. Penryn. Perris. Pescadero. Piru. Pittsburg. Pixley. Placerville. Pleasanton. Pomona. Porterville. Port Hueneme. Quincy. Red Bluff. Redding. Redlands. Redwood City. Reedley. Rescue. Rialto. Richgrove. Richmond. Ripon. Riverside. Roseville. Sacramento. Saint Helena. Salinas. San Andreas. San Anselmo. San Bernardino. San Bruno. San Carlos. San Diego. San Fernando. San Francisco. Sanger. San Gregorio. San Jose. San Leandro. San Luis Obispo. San Mateo. San Rafael. Santa Ana. Santa Barbara. Santa Cruz. Santa Maria. Santa Paula. Santa Rosa. Santa Susana. Saticov. Sausalito. Selma. Shafter. Shingle Springs. Simi. Somis. Sonora. South San Francisco. Springville. Stockton. Strathmore. Sultana. Sunol. Susanville. Tehachapi. Terra Bella. Tipton. Tracy. Tulare. Turlock. Ukiah. Upland. Vacaville. Vallejo. Ventura

Victorville.

Walnut Creek.

Visalia.

Wasco.

Waterford. Woodlake.
Watsonville. Woodland.
Watts. Yattem.
West Sacramento. Yreka.
Williams. Yuba City.
Willows. Yucaipa.

(v) District of Columbia. Plants and Plant Products Subject to Inspection—All florists' stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products in the raw or unmanufactured state, except vegetable and flower seeds and succulent plants such as tomato, pepper, and cabbage.

Inspection place—Washington, D.C.

(vi) Florida. Plants and Plant Products Subject to Inspection—All florists' stock such as plants of dieffenbachia, dracaena, and philodendron; trees, shrubs, and vines of a woody nature such as rose bushes, hibiscus plants, grape and blackberry vines, and the cuttings, grafts, scions, and buds of all such plants; sweet potato and orchid plants.

Note: Inspection is not required of diseaseand insect-free vegetable, field crop, strawberry, or flowering annual plants; lawn or pasture grass plants; seeds, corms, tubers, or bulbs; cut flowers, ferns, or foliage; or other plant material not intended for growing or propagation.

Terminal inspection places:

Gainesville. Tampa.
Pensacola. Miami.
Jacksonville. West Palm Beach.

(vii) Hawaii. Plants and Plant Products Subject to Inspection—All florists' stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits and other seeds of fruit and ornamental trees and shrubs, and other plants and plant products in the raw or unmanufactured state, except vegetable and flower seeds.

Inspection place: Honolulu.

(viii) Idaho. Plants and Plant Products Subject to Inspection—All florists' stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products in the raw or unmanufactured state, except vegetable and flower seeds and succulent plants such as tomato, pepper, and cabbage; provided, that this list of plants and plant products shall not apply to plants and plant products shipped either under the certificate of the United States Department of Agriculture or of the Idaho State Department of Agriculture.

Terminal inspection places:

Blackfoot. Parma.
Boise.¹ Payette.¹
Burley. Pocatello.¹
Caldwell. Rexburg.
Emmett.¹ Rupert.
Idaho Falls.¹ Sandpoint.
Lewiston.¹ Twin Falls.¹

<sup>1</sup>Places to which parcels may be sent in care of a plant inspector for onward transmission to the ultimate address. Burley, Pocatello, and Rexburg terminal inspection points operate from September 15 through July 1 of each year. All other points operate on a year-round basis.

(ix) Louisiana. Plants and Plant Products Subject to Inspection. All seed sweet potatoes and sweet potato plants, if not accompanied by a certificate issued by an appropriate agricultural official of the State of origin declaring the true quality of the seed or plants contained in the shipment and showing the variety, lot number, and the year the sweet potatoes were grown. Certification by the State of origin shall be based on specific requirements of inspection standards in the appropriate Louisiana certified seed regulation. Shippers should tie sweet potato plants in bundles of approximately 100 with official tape issued by the official certification agency of the State of origin.

Note: All seed sweet potatoes and sweet potato plants from any place in the State of Alabama or Georgia, whether or not accompanied by a certificate are subject to terminal inspection.

Terminal inspection place: Monroe.

(x) Minnesota. Plants and Plant Products Subject to Inspection—All wild and cultivated trees, shrubs, and woody vines; perennial roots, such as peonies and iris; small-fruit plants, such as strawberries and raspberries; herbaceous perennials, such as hollyhocks and other hardy flowering plants; cuttings, buds, grafts, and scions for or capable of propagation.

Inspection place: St. Paul.

(xi) Mississippi. Plants and Plant Products Subject to Inspection—Sweet potatoes, sweet potato plants, vines, and cuttings; morning-glory vines and roots, and tomato plants: Provided, That this list of plants and plant products shall not apply to any of the above plants, roots, or tubers, the shipment of which originates within the State of Mississippi and are addressed to places within the State, when accompanied with a certificate of inspection issued by the State plant board of Mississippi. The importation of tomato plants from other States is prohibited.

Note: Sweet potato tubers, plants, vines, cuttings, draws, and slips and morning glory plants are regulated and will not be permitted entry from the States of Alabama and Georgia unless the duly authorized plant inspection official of the State of origin has filed with the State Plant Board of Missispipi a Certificate of Inspection certifying that it has been determined by competent, official survey that the regulated products were inspected during their growing period and were found to be free of the sweet potato mosaic and that this virus disease is not known to exist in the county or parish in which the products were grown or originated.

Terminal inspection places:

Aberdeen.
Booneville.
Brookhaven.
Grenada.
Gulfport.
Jackson.
Kosciusko.
Laurel.

Leland.
Meridian.
Moss Point.
Poplarville.
Senatobia.
Starkville.
State College.
Stoneville.

(xii) Montana. Plants and Plant Products Subject to Inspection—All florists' stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits and other seeds of fruit and ornamental trees or shrubs and other plants and plant prod-

ucts in the raw or unmanufactured state, § 41.3 Post office boxes. except vegetable and flower seeds and succulent plants such as tomato, pepper, and cabbage.

Terminal inspection places:

Havre Billings. Helena. Butte. Culbertson. Kalispell. Glasgow. Laurel. Miles City. Missoula. Great Falls.

(xiii) Puerto Rico. Plants and Plant Products Subject to Inspection—All florists' stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products in the raw or unmanufactured state. including field, vegetable, and flower seeds; also cotton lint.

Inspection place: San Juan.

(xiv) Utah. Plants and Plant Products Subject to Inspection—All florists' stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products in the raw or unmanufactured state, except vegetable and flower seeds.

Terminal inspection places:

Brigham City. Price. Provo.2 Cedar City.2 Farmington. Richfield.2 Logan. Salt Lake City.2 Ogden.2

(xv) Washington. Plants and Plant Products Subject to Inspection—All florists' stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits and other seeds of fruit and ornamental trees or shrubs, and other plants, and plant products in the raw or unmanufactured state. except vegetable and flower seeds.

Terminal inspection places:

Bellingham. Olympia. Brewster. Oroville. Cashmere. Pateros. Chehalis. Port Angeles. Chelan Prosser. Clarkston. Puyallup. Colville. Seattle. Dryden. Spokane. Ellensburg. Vancouver. Ephrata. Walla Walla. Everett. Wenatchee. Grandview. White Salmon. Kennewick. Yakima. Mount Vernon. Zillah Okanogan.

Shippers desiring Washington permits must make application direct to the Supervisor of Horticulture, State Department of Agriculture, Olympia, Wash.

Note: The corresponding Postal Manual section is 125.4

(R.S. 161, as amended; sec. 1, 62 Stat. 781, as amended; 5 U.S.C. 22, 18 U.S.C. 1716, 39 U.S.C. 501, 4001, 4058)

IV. In § 41.3, as published in 26 F.R. 11571-11573, paragraph (h) (4) is amended to show the proper office of the General Counsel to which reports must be addressed. As so amended, paragraph (h) (4) reads as follows:

\*

\* \* (h) Restrictions. \* \* \*

(4) Closing of box. When a postmaster has reason to believe that a box is being used for a fraudulent, deceptive, or unlawful scheme, or for an immoral or improper purpose, or for the purposes of a lottery, or that the safety of the mail is endangered by its continued use, or that its use is for other than the receipt of mail or official postal notices, he will report the facts to the Assistant General Counsel, Mailability Division. If the General Counsel finds that the box is being used for any of said purposes, he shall have the right to order the box

Note: The corresponding Postal Manual section is 151.384.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C.

V. In § 42.2, as published in 26 F.R. 11573-11574, paragraph (b) is amended to show the proper office of the General Counsel to which inquiries are addressed. As so amended, paragraph (b) reads as follows:

§ 42.2 What are letters. \*

(b) Rulings on letters. The examples set forth in this part do not comprise every type of matter that would fall either within or without the scope of letters covered by the postal monopoly. The sender or carrier of matter who has any doubt as to whether such matter is or is not a letter may obtain, upon request, a specific ruling from the General Counsel of the Post Office Department. Inquiries should be addressed to the Assistant General Counsel, Opinions Di-

Note: The corresponding Postal Manual section is 152.22.

(R.S. 161, as amended; sec. 1, 62 Stat. 777; 5 U.S.C. 22, 18 U.S.C. 1696, 39 U.S.C. 501)

VI. In § 44.7, as published in 26 F.R. 11578, paragraph (b) is amended to show the proper office of the General Counsel to which rulings are addressed. As so amended, paragraph (b) reads as follows:

§ 44.7 Conflicting orders by two or more parties for delivery of same mail.

(b) Reference to General Counsel for ruling. Where the disputing parties are unable to select a receiver, each party shall furnish the postmaster all available evidence on which he relies to exercise control over the disputed mail. If after receipt of such evidence the postmaster is still in doubt as to who should receive the mail, the postmaster will submit the case to the Assistant General Counsel. Opinions Division, Office of the General Counsel for a ruling.

Note: The corresponding Postal Manual section is 154.72.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C.

Louis J. Doyle, General Counsel

[F.R. Doc. 61-11995; Filed, Dec. 18, 1961; 8:47 a.m.]

### PART 31-STAMPS, ENVELOPES, AND POSTAL CARDS

### Postage Stamps

The regulations of the Post Office Department in Part 31, as published in 26 F.R. 11559-11562, are amended as follows:

### § 31.1 [Amendment]

I. In § 31.1 Stamps (Adhesive), make the following changes in the table in paragraph (a) Adhesive stamps available.

A. Under "Denomination and Prices" and opposite "Air Mail Postage" "Single or Sheet" form, strike out "10" and insert in lieu thereof "13". 13 cent airmail stamps are now available at post offices.

B. Under "Denomination and Prices" and opposite "Postage due" in "Single or Sheet" form add the following immediately after the parenthetical phrase therein: "1/2 cent stamp will be discontinued when stocks become exhausted."

Note: The corresponding Postal Manual section is 141.11.

II. In § 31.2 make the following changes:

A. Amend the section heading of § 31.2 to read as follows:

### § 31.2 Plain envelopes, postal cards, and aerogrammes.

B. Paragraphs (b) and (c) are amended to reflect the new international postal rates which became effective July 1, 1961. As so amended, paragraphs (b) and (c) read as follows:

(b) Postal cards available.

Size No. Kind		Selling	Sheets		
	price, each	Number of cards per sheet	Cards per case		
4	Domestic air mail single (use for air mail	Cents 5			
6 8 111	only). Domestic reply (3 cents each half) Domestic single Foreign single	6 3 7	20 (4 x 5 cards) 40 (4 x 10 cards)	5, 00 10, 00	
<sup>1</sup> 12 <sup>2</sup> F	Foreign reply (7 cents each half) Foreign reply (3 cents each half)	14 6			

Postal cards in sheets, for use in printing, must be cut to regulation size,  $314 \times 51/2$  inches; however sizes 4 and 8 may be cut to  $3 \times 5$  inches. Cases may be broken for sale to printers. Return addresses are not printed on postal cards by the Post Office Department. Precanceled postal cards are not available at a post office.

<sup>&</sup>lt;sup>2</sup>Places to which parcels may be sent in care of a plant inspector for onward transmission to the ultimate addressee.

 $<sup>^1</sup>$  Current stocks may be revalued by the affixing of 3-cent adhesive postage stamps.  $^2$  Current stocks being revalued by the affixing of 1-cent adhesive postage stamps.

§ 131.5 of this chapter.

Note: The corresponding Postal Manual section is 141.22

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501, 507, 2501)

> LOUIS J. DOYLE. General Counsel.

[F.R. Doc. 61-11994; Filed. Dec. 18, 1961; 8:47 a.m.1

### Title 41—PUBLIC CONTRACTS

Chapter 2—Federal Aviation Agency PART 2-1-GENERAL

Subpart 2-1.3—General Policies

PART 2-3-PROCUREMENT BY **NEGOTIATION** 

Subpart 2-3.1-Use of Negotiation

USE OF LIQUIDATED DAMAGES PROVISIONS IN PROCUREMENT CONTRACTS, AND DIS-SEMINATION OF PROCUREMENT INFORMA-

- 1. Section 2-1.315 is revised to read as follows:
- § 2-1.315 Use of liquidated damages provisions in procurement contracts. § 2-3.315-2 Policy.
- (a) Determination as to the use of liquidated damages provisions in a contract, and of the rate of such damages is solely the responsibility of the Contracting Officer. In making the determination, he shall obtain essential facts from the requisitioning office and be guided by a strict application of the criteria set forth in § 1-1.315-2 of this title, and by the following general policies:

(1) Liquidated damages provisions will not be used routinely in Agency contracts, but they may be used when failure to meet the completion or delivery schedule in a proposed facility or equipment contract will seriously delay established commissioning dates. They may also be used in other situations when failure to perform will likely cause the Agency to suffer substantial damages, the amount of which is difficult or im-

possible to determine.

(2) Liquidated damages provisions generally should not be used: (i) In contracts for supplies or services that are for administrative purposes; (ii) in contracts for standard commercial or "shelf" items; (iii) in any contract where the needs of the Agency can be met by termination and re-procurement if the initial contractor defaults; (iv) in small purchases (under \$2,500); and (v) in study, experimental, developmental, or research contracts, including equipment contracts requiring developmental work.

(3) In transactions involving an item where only a portion of the quantity ordered is for immediate programs, and liquidated damages provisions would be applicable in accordance with prescribed policies, care should be taken to have the liquidated damages provisions apply only to the urgent quantity.

(4) A fixed formula, based on percentage of value, shall not be used to

(c) Aerogrammes. 11¢ each. See establish the rate of damages. Consideration shall be given to the following factors in establishing the rate of damages: (i) The importance of the item in relation to the facility or project for which it is intended; (ii) the number of facilities or projects involved; (iii) the relative importance of the facility or project in the over-all program of the Agency; (iv) the tightness of the contract schedule; and (v) any unusual damages that can be anticipated.

(5) Unless it is clear that partial delivery will proportionately reduce the extent of probable damages, rates shall not be applied to individual units of an item, but rather to quantities of an item. or to groups of items, which are required for delivery or completion at the same time. Rates should generally be expressed in terms of even dollars per day of delay with a minimum of one dollar.

Where rates are applied to quantities or groups, assessment of damages will not be prorated for delay of partial

quantities.

(b) A statement justifying the use of liquidated damages provisions shall be included in the contract file, together with an explanation of how the rate of damages was determined.

(c) Positive follow-up on the contractor's performance and actions to eliminate delays in all contracts shall be maintained at all times. Serious consideration shall be given to termination of contracts which include liquidated damages provisions in any case where the accrued damages reach 15 percent

of the contract value.

(d) Where liquidated damages provisions are used, they shall be strictly enforced. In making partial or progress payments, deductions for damages should be made on the basis of the actual number of days of delay multiplied by the rate. Exception may be made if the contractor has applied for an extension of time and provided sufficient information to permit a finding by the contracting officer, or if delays caused by the Government are clearly established. In such cases appropriate adjustments should be made and the contractor notified of the action taken. It is the contractor's responsibility to give notice of delays and to provide evidence to support any remission of damages or contract time extension.

(Secs. 303, 313, 72 Stat. 747, 752; 49 U.S.C. 1344, 1354)

- 2. Section 2-3.103 is supplemented as follows:
- § 2-3.103 Dissemination of procurement information.
- (a) Procurement information which is classified shall be released only in accordance with regulations prescribed by the Security Division, Office of Personnel and Training. See Chapter 14 of Agency Practice 6-3.
- (b) The clause set forth in § 2-7.150-20 shall be included in contracts which are classified as "Confidential" or "Confidential-Modified Handling Authorized", or higher.

(Secs. 303, 313, 72 Stat. 747, 752; 49 U.S.C. 1344, 1354)

Effective date: These regulations are effective December 22, 1961.

Dated: December 12, 1961.

JOHN R. PROVAN, Director of Management Services

[F.R. Doc. 61-11973; Filed, Dec. 18, 1961: 8:45 a.m.]

### Title 43—PUBLIC LANDS: INTERINR

Chapter I-Bureau of Land Management, Department of the Interior

[Circular No. 2072]

SUBCHAPTER A-ALASKA

PART 61-CERTIFICATES AND SCRIP

PART 64—HOMESITES OR **HEADQUARTERS** 

PART 66-ENTRIES ON COAL, OIL, AND GAS LANDS

PART 81-TRADE AND MANUFAC-TURING SITES

SUBCHAPTER B-APPLICATIONS AND ENTRIES

PART 102-AGRICULTURAL ENTRIES ON MINERAL LANDS

SUBCHAPTER I-MINERAL LANDS

### PART 192-OIL AND GAS LEASES

In order to incorporate in the regulations the provisions of the act of August 2, 1956 (70 Stat. 954; 48 U.S.C. 357) and August 23, 1958 (72 Stat. 730; 48 U.S.C. 376), and August 17, 1961 (75 Stat. 384), portions of Subchapter A of Chapter I of 43 CFR are amended to read as set forth below. The provisions of 43 CFR 102.22 and 192.71(b) are amended as set forth below in order to obviate cancellation of entries and settlement claims where the lands have leasable mineral value.

This amendment relates to matters which are exempt from the rule making requirements of the Administrative Procedure Act (5 U.S.C. 1002), and although the Department of the Interior customarily observes the rule making requirements voluntarily, that procedure was not followed in this case since this change in the regulations is merely a reflection of the changes in the law and otherwise avoids forfeitures of entries. The provisions of the change in § 61.3, and §§ 64.1, 81.1, 64.5(h), 64.12(f), 81.6 (e) of this chapter, became effective August 23, 1958.

1. Section 61.3 is amended to read as follows:

§ 61.3 Coal, oil, or gas lands.

Lands in soldiers' additional rights applications that may be valuable for coal, oil or gas deposits are subject to the regulations of Part 66 of this chapter.

2. Sections 64.1, 64.5(h) and 64.12(f) are amended to read as follows:

§ 64.1 Statutory authority.

The act of March 3, 1927 (44 Stat. 1364; 48 U.S.C. 461), as amended, authorizes the sale as a homestead or head-

unreserved public lands in Alaska at the rate of \$2.50 per acre, to any citizen of the United States 21 years of age employed by citizens of the United States, association of such citizens, or by corporations organized under the laws of the United States, or of any State or Territory, whose employer is engaged in trade, manufacture, or other productive industry in Alaska, and to any such person who is himself engaged in trade, manufacture or other productive industry in Alaska. The lands must be nonmineral in character except that lands that may be valuable for coal, oil, or gas deposits are subject to disposition under the provisions of the act of March 8, 1922 (42 Stat. 415; 48 U.S.C. 376-377), as amended.

### § 64.5 Form and contents of applications.

(h) That no part of the land is valuable for mineral deposits other than coal, oil or gas, and that at the date of location no part of the land was claimed under the mining laws.

### § 64.12 Form and contents of application.

(f) That no part of the land is valuable for mineral deposits other than coal, oil or gas, and that at the date of location no part of the land was claimed under the mining laws.

### 3. Part 66 is revised to read as follows:

66.1 Statutory authority.

66.2 Reservation of coal, oil, or gas to the United States; practice and procedure.

66.3 Rights of prior mineral permittees or

66.4 Obligations of subsequent mineral permittees or lessees; bonds for pro-specting damages; bonds for mining damages.

66.5 Use of coal by the nonmineral claim-

Authority: §§ 66.1 to 66.5 issued under 72 Stat. 730; 48 U.S.C. 376, 377.

### § 66.1 Statutory authority.

(a) The act of March 8, 1922 (42 Stat. 415), as amended August 23, 1958 (72 Stat. 730; 48 U.S.C. 376, 377), referred to in §§ 66.1 to 66.5 of this part as "the act of 1922," provides that (1) in Alaska, homestead, including soldiers' additional homestead, homesite, headquarters site, and trade and manufacturing site claims may be initiated by actual settlers on public lands which are known to contain workable coal, oil, or gas deposits or that may be valuable for the coal, oil, or gas contained therein, and which are not otherwise reserved or withdrawn; (2) such claims initiated in good faith may be perfected under the appropriate public land laws and, upon satisfactory proof of full compliance with these laws, the claimant shall be entitled to patent to the lands entered by him, which patent shall contain a reservation to the United States of all the coal, oil, or gas in the land patented, together with the right to prospect for, mine, and remove the same; and (3) should it be discovered at tificate on any claim initiated for unreserved lands in Alaska that the lands are coal, oil, or gas in character, the natent issued on such entry shall contain the reservation referred to in subparagraph (2) of this paragraph.

(b) The act of May 17, 1906 (34 Stat. 197), as amended August 2, 1956 (70 Stat. 954; 48 U.S.C. 357), permits, subject to the provisions of the act of 1922, homestead allotments to Indians. Aleuts. and Eskimos of vacant, unappropriated, and unreserved lands in Alaska that may be valuable for coal, oil, or gas deposits and the act of August 17, 1961 (75 Stat. 384), permits the Secretary of the Interior to sell under the provisions of section 2455 of the Revised Statutes (43 U.S.C. 1171), as amended, lands in Alaska known to contain workable coal, oil, or gas deposits, or that may be valuable for the coal, oil, or gas contained therein, and which are otherwise subject to sale under said section 2455, as amended, upon the condition that the patent issued to the purchaser thereof shall contain the reservation required by section 2 of the act of 1922. (See Part 250 of this Title.)

(c) Section 2 of the act of 1922 provides (1) the coal, oil, and gas deposits reserved under the act shall be subject to disposal by the United States in accordance with the provisions of the laws applicable to coal, oil, or gas deposits, or coal, oil, or gas lands in Alaska, in force at the time of such disposal; (2) any person qualified to acquire coal, oil, or gas deposits, or the right to mine and remove the coal, or to drill for and remove the oil or gas under the laws of the United States shall have the right at all times 1 to enter upon the lands as provided by the act for the purpose of prospecting for coal, oil, or gas upon the approval, by the Secretary of the Interior, of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting; (3) any person who has acquired from the United States the coal, oil, or gas deposits in any such land or the right to mine, drill for, or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the coal, oil, or gas therefrom, and mine and remove the coal or drill for and remove the oil or gas upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking, in an action instituted in any competent court to ascertain and fix the said damages.

### Reservation of coal, oil, or gas to the United States; practice and procedure.

The act of 1922 extends to Alaska the principles of the acts of March 3, 1909 (35 Stat. 844; 30 U.S.C. 81), June 22, 1910 (36 Stat. 583; 30 U.S.C. 83-85), and July 17, 1914 (38 Stat. 509; 30 U.S.C.

quarters of not to exceed five acres of any prior to the issuance of a final cer- 121-123), which, among other things, govern agricultural entries on coal, oil, or gas lands in States other than Alaska. The general instructions under these acts relating to the reservation of coal. oil, or gas to the United States as set forth in Part 102 of this chapter will, therefore, be followed in matters of practice and procedure.

### § 66.3 Rights of prior mineral permittees or lessees.

If prior to the date of the initiation of a claim that is subject to the provisions of the act of 1922, the land was embraced in an oil and gas lease, or a coal permit or lease, or an application for or offer of such a lease or permit, the land will be subject to the right of such prior mineral permittee or lessee. or of such prior applicant for or offeror of a mineral permit or lease, to occupy and use so much of the surface of the lands as may be reasonably required for mineral leasing operations, without liability to the entryman, allottee, or patentee for crop and improvement damages resulting from such mineral activity.

#### § 66.4 Obligations of subsequent mineral permittees or lessees; bonds for prospecting damages; bonds for mining damages.

(a) Any coal permit applicant or noncompetitive oil and gas lease offeror whose application or offer was filed subsequent to the date of the initiation of a claim that is subject to the provisions of the act of 1922 must file with the appropriate Land Office Manager a waiver from, or a consent of, the claimant, or a bond or undertaking on Form 4-1130 for coal applicants and Form 4-208g for oil and gas offerors for the payment of all damages to the crops and improvements on the lands caused by the prospecting.

(b) There must be filed with the bond or undertaking required by the preceding paragraph, evidence of service of a copy thereof upon the claimant. The bond must be executed by the prospector as principal and by a corporate surety which has been approved as required by section 1 of the act of July 30, 1947 (61 Stat. 646; 6 U.S.C. 1-15), in the sum of \$1,000. Where surety bonds are tendered with individuals as sureties, they must be executed by not less than two qualified individual sureties. Each surety must execute a statement showing that he is worth \$2,000 in real property not exempt from execution, over and above his just debts and liabilities and that he is either a resident of the same State or Territory and the United States Judicial District as the principal on the bond, or of the United States Judicial District in which the lands involved are located. There also must be furnished a certificate by a judge or clerk of a court of record, a United States Attorney, a United States Commissioner, or a United States Postmaster, as to the identity, signature, and financial competency of the sureties. The statement of justification required to be furnished by the sureties, and the certificate of competency must be on Form 4-215.

<sup>&</sup>lt;sup>1</sup> After the issuance of, and pursuant to, a lease or permit therefor.

(c) Bonds or undertakings executed pursuant to the provisions of § 66.1(c) (3) must not be filed with the Bureau of Land Management. Such bonds or undertakings are to be arranged for as specified in that subparagraph.

# § 66.5 Use of coal by the nonmineral claimant.

A claimant under the act of 1922 may, at any time prior to the disposal by the United States of the coal deposits on his claim, make use of them for his domestic purposes and this may be done without the filing of any application therefor. This privilege does not, however, authorize the mining of the coal deposits for the purpose of barter or sale.

4. Section 81.1 and 81.6(e) are amended to read as follows:

### § 81.1 Statutory authority.

Section 10 of the act of May 14, 1898 (30 Stat. 413, as amended August 23, 1958 (72 Stat. 730; 48 U.S.C. 461), authorizes the sale at the rate of \$2.50 per acre of not exceeding 80 acres of land in Alaska possessed and occupied in good faith as a trade and manufacturing site. The lands must be nonmineral in character, except that lands that may be valuable for coal, oil, or gas deposits are subject to disposition under the act of March 8, 1922 (42 Stat. 415; 48 U.S.C. 376-377), as amended, and the regulations of Part 66 of this chapter.

§ 81.6 Facts to be shown in application.

- (e) That no part of the land is valuable for mineral deposits other than coal, oil or gas, and that at the date of location no part of the land was claimed under the mining laws.
- 5. Section 102.22 is amended to read as follows:
- § 102.22 Procedure on reports as to oil and gas, involving nonmineral entries, prior to proof, or after proof and prior to patent.
- (a) Where the Geological Survey reports that land embraced in a nonmineral entry or claim on which final proof has not been submitted or which has not been perfected is in an area in which valuable deposits of oil and gas may occur because of the absence of reliable evidence that the land is affected by geological structure unfavorable to oil and gas accumulation, the entryman or claimant will be notified thereof and allowed a reasonable time to apply for reclassification of the land as nonmineral, submitting a showing therewith, and to apply for a hearing in event reclassification is denied, or to appeal. He must be advised that, if a hearing is ordered, the burden of proof will be upon him, and also that, if he shall fail to take one of the actions indicated, his entry or claim and any patent issued pursuant thereto will be impressed with a reservation of oil and gas to the United States.

(b) In a case where acceptable final proof has been submitted, or a claim has been perfected, and the Geological Survey thereafter makes report, as in the

above or similar form, such report will not be relied upon as basis for a mineral reservation unless the Government is prepared to assume the burden of proving, prima facie, that the land was known to be of mineral character, at the date of acceptable final proof or when the claim was completed, according to the established criteria for determining mineral from nonmineral lands, among which may be those recognized by the Supreme Court in the case of United States v. Southern Pacific Company et al. (251 U.S. 1, 64 L. ed. 97). If the Government is thus prepared to assume such burden of proof, the Bureau of Land Management will notify the entryman of the mineral classification and that a hearing will be ordered if he manifests disagreement with the classification within a reasonable period. The entryman or claimant will be advised that in the event hearing is had, the burden of proof will be upon the Government; also, that, if he shall fail to make answer within the time allowed, the entry or claim and any patent issued pursuant thereto will be impressed with a reservation of oil or gas to the United States.

CROSS REFERENCE: For Geological Survey, classification of public coal lands, see 30 CFR Part 201.

- 6. Section 192.71(b) is amended to read as follows:
- § 192.71 Lands in entries or claims not impressed with a reservation of oil and gas.

(b) Should the land be found to be prospectively valuable for oil or gas, the entryman or settler will be notified thereof and allowed a reasonable time to apply for reclassification of the land as nonmineral, submitting a showing therewith, and to apply for a hearing in the event that reclassification is denied, or to appeal. If he does neither, or he is unsuccessful, the entry or settlement rights and any patent issued pursuant thereto will be impressed with a reservation of oil and gas to the United States. In such circumstances a lease will be granted to the offeror, all else being regular, unless the entryman or settler has a preference right. See § 102.22 of this chapter.

STEWART L. UDALL, Secretary of the Interior.

DECEMBER 12, 1961.

[F.R. Doc. 61-11978; Filed, Dec. 18, 1961; 8:46 a.m.]

# Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER F—FEDERAL AID TO STATES IN FISH AND WILDLIFE RESTORATION

### PART 80—RESTORATION OF GAME BIRDS, FISH AND MAMMALS

On page 8103 of the FEDERAL REGISTER of August 30, 1961, there was published

a notice and text of a proposed revision of Part 80, of Title 50, Code of Federal Regulations. The purpose of the revision is to facilitate administrative procedures, improve editorial construction and adjust the organizational arrangement of the sections.

Interested persons were given 30 days within which to submit written comments, suggestions or objections with respect to the proposed revision. Several comments were received which were thoroughly considered. As a result of such consideration it has been determined to change paragraph (d) of § 80.11, Project Standards, to state clearly that Federal Aid projects may Project Standards, to state benefit fish or wildlife or both. Also, § 80.20, Personnel, has been changed to make it clear that this section applies only to personnel employed on Federal Aid projects. These changes, together with editorial changes that have been made to have the regulations conform with the provisions of the Federal Aid in Wildlife Restoration Act of September 2, 1937, as amended (50 Stat. 917 et seg.) and the Federal Aid in Fish Restoration Act, as amended (64 Stat. 430 et seq.), are as follows:

In § 80.11(d) the wording "fish or wildlife or both" has been substituted for "fish or wildlife" and for "fish and wildlife."

In § 80.12(a), the following wording has been added after the clause "whichever is less": "provided that Federal Aid payments to the territorial areas of Guam and the Virgin Islands and the Commonwealth of Puerto Rico shall not exceed the amount specified in the project agreement and in no event shall they be required to pay an amount which will exceed 25 percent of the cost of any project."

In § 80.18, in the third sentence the words "unit of" have been deleted. This refers to the unit of property evaluated. Also the fourth sentence which reads: "A unit of property for the purposes of the preceding sentence is defined in the case of real property as a contiguous tract purchased by the State from one ownership." has been deleted.

In § 80.20 the words "Federal Aid" have been added to the first sentence immediately preceding "projects." Likewise "Federal Aid" has been added to the second sentence immediately preceding the first word.

This proposed revision, as changed, is hereby adopted as set forth above and shall become effective at the beginning of the calendar day on which it is published in the Federal Register.

Stewart L. Udall, Secretary of the Interior.

DECEMBER 12, 1961.

Sec.
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80.2 Apportionment and certification.
80.3 Notice of desire to participate.
80.4 Diversion of funds.

80.5 Participation by State subdivisions.
80.6 General information for the Secretary.
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7 Hunting and fishing license information.
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80.8 Preliminary project statement.80.9 Plans, specifications and estimates.

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Economy and efficiency.

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AUTHORITY: §§ 80.1 to 80.28 issued under sec. 10, 50 Stat. 919, as amended; sec. 10, 64 Stat. 430, as amended, 16 U.S.C. 669i, 777i.

### § 80.1 Definitions.

As used in this part, terms shall have the meanings ascribed in this section.

(a) Federal Aid Act(s). (1) The Act of Congress, approved September 2, 1937, entitled "An Act to provide that the United States shall aid the States in wildlife restoration projects, and for other purposes," (50 Stat. 917, as amended; 16 U.S.C. sec. 669-669i), com-917, as monly referred to as the Pittman-Robertson Act; and (2) the Act of Congress, approved August 9, 1950, entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes," (64 Stat. 430, as amended; 16 U.S.C. sec. 777-777k), commonly referred to as the Dingell-Johnson Act.

(b) State. Any State of the United States, the territorial areas of Guam and the Virgin Islands, and the Common-

wealth of Puerto Rico.

(c) State Fish and Game Department. Any department or division, or commission, or official, of a State empowered under its laws to exercise the functions ordinarily exercised by a State Fish and Game Department, the Commissioner of Agriculture and Commerce of Puerto Rico, or the Governor of Guam or the Virgin Islands.

(d) Project. An undertaking involving acquisition of areas of land or water or interests therein, for feeding, resting, or breeding places for fish or wildlife; restoration, rehabilitation, or improvement, by construction of necessary works or otherwise, of land and water areas for the benefit of fish or wildlife or both; maintenance of completed projects; management (exclusive of law enforcement and public relations) of fish or wildlife areas and resources; conduct of research into problems of fish or wildlife management, and the coordination of projects necessary to efficient administration affecting fish and wildlife resources.

(e) Project segment. Considering the nature, objectives and fiscal aspects of a project, when viewed as a completed project, a segment is an essential part, section, division or logical work unit.

(f) Completed project. A project will be considered completed when the area has been acquired or the work or capital improvements have been finished, inspected, and approved.

(g) Fish and wildlife. (1) The term "fish" is limited to aquatic, gill breathing, vertebrate animals bearing paired fins; and (2) the term "wildlife" is limited to wild birds and wild mammals.

### § 80.2 Apportionment and certification.

The Secretary shall apportion funds in the manner prescribed in the Acts, as soon as possible after receiving notification of the amounts which have become available for the purposes of the Acts. He shall promptly certify to the Secretary of the Treasury and to each State Fish and Game Department the respective sums which he has deducted for administering and executing the Acts and the respective sums which he has apportioned to each State for the ensuing fiscal year.

### § 80.3 Notice of desire to participate.

Any State Fish and Game Department desiring to avail itself of the benefits of the Acts shall notify the Secretary within sixty days after it has received from him a certificate of apportionment of funds available to the State.

### § 80.4 Diversion of funds.

A diversion of funds occurs when a State Fish and Game Department, through legislative action or otherwise, loses control over the expenditure of any portion of its hunting license or sport fishing license revenues or expends such revenues for any purpose other than the administration of the State Fish and Game Department. When a diversion of funds occurs a State thereby becomes ineligible to receive Federal Aid funds under the pertinent Act(s) from the date the diversion occurs until:

(a) Action is taken to return the administration of hunting and sport fishing license fees to the State Fish and Game Department; and

(b) Hunting and sport fishing license fees used for purposes other than the administration of the State Fish and Game Department are replaced: Provided, however, That, where any projects were approved in compliance with the terms of the pertinent Act(s) prior to diversion, and Federal Aid funds were obligated to carry out such projects, such funds shall remain available therefor until expended, without regard for the intervening period of the State's ineligibility under the Act(s).

### § 80.5 Participation by State subdivisions.

When any part of the cost of a project is to be furnished by a county or any other subdivision of a State, the plans, specifications and estimates shall be accompanied by a certified copy of each resolution or order, if any, of the appropriate local officials, or by such other showing as the Secretary may require. The plans, specifications and estimates shall show the funds that are made available, indicate the control of the money provided for paying such cost, and state whether the State, county, or other subdivision will own the lands and improvements; and state which agency shall have immediate responsibility for administration and maintenance after completion of the project.

§ 80.6 General information for the Secretary.

Before any Federal funds may be obligated for any project to be undertaken in a State, there shall be furnished to the Secretary upon his request, information regarding the laws affecting fish or wildlife conservation and the authority of the State and of local officials with respect to the establishment and maintenance of projects; and the existing provisions of the State constitution or laws relating to revenues for the protection, restoration and management of fish or wildlife.

(a) Document signature. The Secretary of State of each State or an authorized official of the State shall certify as to the duly appointed official(s) authorized in accordance with State law to commit the State to participation under the provisions of the Acts and to sign Federal Aid project documents. Secretary shall be advised promptly of any change made in such authorizations to sign Federal Aid documents.

(b) Program information. The Secretary may, from time to time, request and the State Fish and Game Department shall furnish information relating to the administration and maintenance of any project established under the Acts.

### § 80.7 Hunting and fishing license information.

Certified information concerning the number of holders of paid hunting licenses and holders of paid fishing licenses of the State in the preceding fiscal year shall be furnished the Secretary by the Fish and Game Department of each State on or before December 15 of each year.

### § 80.8 Preliminary project statement.

A preliminary project statement shall be submitted for each proposed project which shall contain such fundamental information as the Secretary may require, in order that he may determine if a project is substantial in character and design.

### § 80.9 Plans, specifications and estimates.

Plans, specifications and estimates shall be submitted for each project segment showing in prescribed form and detail the work to be performed and its estimated cost.

### § 80.10 Project agreement.

After the Secretary shall have approved a preliminary project statement and the plans, specifications and estimates of costs, the mutual obligations to be undertaken by the cooperating agencies shall be evidenced by a project agreement to be executed between the State Fish and Game Department and the Secretary for each such project or project segment.

### § 80.11 Project standards.

Standards for Federal Aid projects

(a) Sufficient funds must be available for expenditure by the State Fish and Game Department for the purpose of originally financing the cost of the projects.

(b) Projects must be substantial in character and design.

(c) Federal Aid participation in the cost of acquisition of lands under a project shall not exceed the amounts determined by the Secretary to be the fair and reasonable value of said lands.

(d) Projects for development, maintenance or management shall have as their objectives the improvement of conditions suitable for fish or wildlife, or both, the upkeep and repair of structures that have been acquired or constructed under either of the Acts or the management of fish or wildlife or both.

(e) Projects dealing with fish or wildlife research shall be concerned with basic studies and with problems having direct management application.

(f) With respect to projects which are designed to include uses other than for fish or wildlife, reimbursement of costs from funds under the Acts shall be limited to the extent of the benefits to fish or wildlife resulting from such projects.

(g) Each project agreement shall contain a provision as follows:

1. The State Fish and Game Department, its employees, operators, lessees, and sub-lessees in the operation of any structure or other facility acquired or constructed under the Acts, shall not:

(a) Publicize the facilities, accommodations, or any activity conducted therein in any manner that would directly or inferentially reflect upon or question the acceptability of any person because of race, creed, color, ancestry, or national origin;

(b) Discriminate, by segregation or other means, against any person or persons because of race, creed, color, ancestry, or national origin in furnishing or refusing to furnish such person the use of any accommodations, facilities, services, or privileges available to the general public.

available to the general public.

2. The State Fish and Game Department shall post the following notice in such a manner where any facility is available as to insure that its contents will be conspicuous to any person seeking the use of any facility:

No discrimination by segregation or other means in the furnishing of accommodations, facilities, services, or privileges on the basis of race, creed, color, ancestry or national origin is permitted in the use of this facility.

3. The State Fish and Game Department shall in all of its contracts or other forms of agreement require inclusion and compliance with provisions identical with those stated in 1 and 2 herein.

### § 80.12 Federal Aid payments.

Federal Aid payments under the Acts, including such preliminary costs and expenses as may be incurred in and about such projects, shall not be made on any project unless the preliminary project statement, the plans, specifications and estimates, and all other documents that may be necessary or required in the administration of these Acts, shall have first been submitted to and approved by the Secretary.

(a) Federal Aid payments shall not exceed 75 percent of the cost of a project or the amount specified in the project agreement, whichever is less: *Provided*, That Federal Aid payments to the territorial areas of Guam, the Virgin Islands and the Commonwealth of Puerto Rico shall not exceed the amount specified in the project agreement and in no

event shall they be required to pay an amount which will exceed 25 percent of the cost of any project.

(b) Federal Aid payments on projects terminated prior to completion shall be limited to the cost of benefits produced, provided the work accomplished is substantial in character and design.

(c) A minimum of 10 percent Federal Aid payment of the cost of each project is required to qualify land acquisition and development projects for maintenance of capital improvements with Federal Aid funds.

### § 80.13 Prosecution of work.

(a) The State Fish and Game Department shall carry all approved projects through to satisfactory completion with Should the reasonable promptness. funds provided the State for prosecution of a given project segment be insufficient to finish all work proposed in the preliminary project statement and in the plans, specifications, and estimates submitted and approved in connection therewith, additional project segments will be submitted and will be considered by the Secretary as additional funds become available, unless the State elects to complete the project with other than Federal Aid funds. Federal participation in the cost of acquisition of lands under a project segment shall not exceed 75 percent of the amounts determined by the Secretary to be the fair and reasonable value of said lands.

(b) All construction work will be performed by contract when practicable.

(c) Research work shall be continuously coordinated with other studies conducted by the State and other agencies in order to avoid unnecessary duplication.

(d) All work shall be performed in accordance with applicable State laws.

### § 80.14 Economy and efficiency.

No project shall be approved until the State has shown to the satisfaction of the Secretary that appropriate and adequate means shall be employed to insure economy and efficiency in the completion of the project.

### § 80.15 Contracts.

Supply, service, equipment and construction contracts involving an expenditure of \$2,500.00 or more entered into by a State for the execution of approved project activities shall be based upon free and open competitive bids. If a contract is awarded to other than the lowest responsible bidder, the Federal Aid payment shall be based on the lowest responsible bid, unless it is satifactorily shown that it was advantageous to the the project to accept a higher bid. Upon request, the State Fish and Game Department shall certify and promptly furnish to the Secretary a copy of each contract as executed.

# § 80.16 Maintenance of completed projects.

The State Fish and Game Department shall exercise all reasonable means to insure permanent and proper management and maintenance of each completed project involving the acquisition, lease or development of lands or waters.

### § 80.17 Form of vouchers.

Vouchers on forms provided by the Secretary and certified as therein prescribed, showing amounts expended on each project segment and the Federal Aid claimed to be due on account thereof, shall be submitted to the Secretary by the State Fish and Game Department, either after completion of each project segment or as the work progresses.

### § 80.18 Credit for receipts.

The Federal Aid program in the State shall be credited with the amount of any net income derived by the State from operation of a project or project seg-ment to the extent of and in the same ratio that Federal Aid funds are used in the production of income. The Federal Aid program in the State shall be credited by reduction of Federal Aid payments with the amount of any net proceeds resulting from the disposal of real or personal property, including supplies and equipment to the extent of and in the same ratio that Federal Aid funds were utilized in the project or segment thereof for which the property was acquired. In no case, however, shall the amount of such credit exceed the amount of Federal Aid funds which were approved for use in the operation of the project or in the acquisition of the property involved. When property acquired with Federal Aid funds is used for non-Federal aid program purposes compensation shall be made in like manner as disposal of such property except that, in the case of temporary nonprogram use of equipment the Federal Aid program shall be credited on the basis of the established Federal Aid rental rates for the type of equipment concerned during the period of nonprogram use. All credits shall be applied to current year funds.

### § 80.19 Safety and accident prevention.

In the performance of each project, the State shall comply with all applicable Federal, State and local laws governing safety, health and sanitation. The State shall be responsible that all safeguards, safety devices and protective equipment are provided and will take any other needed actions reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the plans, specifications and estimates.

### § 80.20 Personnel.

The State Fish and Game Department shall maintain an adequate and competent force of employees to initiate and carry Federal Aid projects through to satisfactory completion. Federal Aid personnel employed by a State Fish and Game Department shall be selected on the basis of their competence to perform the services required and shall conduct their duties in a manner acceptable to the Secretary.

### § 80.21 Nondiscrimination.

Each project agreement shall contain the equal employment opportunity provision of section 301 of Executive Order 10925, dated March 6, 1961 (26 F.R. § 80.24 Inspection. 1977).

### § 80.22 Statements and payrolls.

The regulations of the Secretary of Labor applicable to contractors and subcontractors (29 CFR Part 3), made pursuant to the Copeland Act, as amended (40 U.S.C. 276c), and to aid in the enforcement of the Anti-Kickback Act (18 U.S.C. 874) are made a part of this regulation by reference. The State will comply with these regulations and any amendments or modifications thereof and the State Prime Contractor will be responsible for the submission of statements required of subcontractors there-The foregoing shall apply except as the Secretary of Labor may specifically provide for reasonable limitations, variations, tolerances, and exemptions.

### § 80.23 Officials not to benefit.

No member of or delegate to Congress. or resident commissioner, shall be admitted to any share or any part of this agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

Supervision of each project by the State Fish and Game Department shall include adequate and continuous inspection. The project will be subject at all times to Federal inspection.

### § 80.25 Samples of materials to be submitted.

Whenever requested, suitable samples of materials to be used in construction work shall be submitted to the Secretary by or on behalf of the State Fish and Game Department to be tested for suitability and conformity with standard specifications.

#### § 80.26 Submission.

Papers and documents required by the Acts or by the regulations in this part shall be deemed submitted to the Secretary from the date of delivery to the Director of the Bureau of Sport Fisheries and Wildlife, or to the appropriate Regional Director of the Bureau.

### § 80.27 Records and reporting.

Progress and completion reports shall be furnished as requested by the Secretary. Cost records of the cost of land acquired, improvements made thereon,

construction work, overhead costs, and of maintenance done by or on behalf of the State shall be kept separately for each project segment. The accounts and records, together with all supporting documents, shall be open at all times to the inspection of authorized representatives of the United States, and copies thereof shall be furnished requested.

### § 80.28 Records retention period.

The records, accounts, and supporting documents required to be maintained under the regulations in this part shall be retained by the State Fish and Game Department until such time as the Secretary shall have made a final audit of the project accounts and notified such department of the acceptability of project claims and accomplishments, and for a period of three years following the receipt of such notification.

Note: All record keeping and reporting requirements of the regulations in this part have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

[F.R. Doc. 61-11977; Filed, Dec. 18, 1961; 8:46 a.m.]

# Proposed Rule Making

### DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service
[ 7 CFR Part 26 ]

### BARLEY GRAIN STANDARDS

### Notice of Proposed Rule Making

Pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003) notice is hereby given that the United States Department of Agriculture has under consideration proposed changes in the Official Grain Standards of the United States for Barley (7 CFR 26.201-26.203) promulgated under the authority of the United States Grain Standards Act (39 Stat. 482), as amended (7 U.S.C. 74)

The Malting Barley Improvement Association is requesting that consideration be given to changing the barley standards so that the varietal type Betzes barley can be graded as malting barley. This Association is also requesting that the grade requirements for Betzes barley be the same as the present requirements for "Western Barley" rather than the requirements for the subclass "Malting Barley" under the class Barley. Betzes barley is a two-rowed barley. It is grown east of the Rocky Mountains and, therefore, would ordinarily not meet the class and grade requirements for Western Barley.

The barley growers in Alaska are requesting that barley grown in that State be classified as Barley rather than as

Western Barley.

It is proposed to amend the introductory text of paragraphs (c) and (d) of § 26.201, and subparagraphs (4) and (5) of paragraph (g) of § 26.203 to read, respectively, as follows:

§ 26.201 Terms defined.

(c) Barley. The class Barley shall be any barley with white hulls which is grown east of the Rocky Mountains or in Alaska and may include not more than 10 percent of black barley or of barley of the class Western Barley, either singly or in any combination. This class shall be divided into the following three subclasses:

(d) Western Barley. The class Western Barley shall be any barley with white hulls which is grown west of the Great Plains area of the United States and may include not more than 10 percent of black barley or of barley of the class Barley, either singly or in any combination, except that barley grown in the State of Alaska shall not be classified as Western Barley. (See paragraph (c) of this section.)

§ 26.203 Grades, grade requirements, and grade designations.

(g) Special grades, special grade requirements, and special grade designa-

tions for barley.

(4) Choice Malting Two-rowed Barley—(i) Requirements. Choice Malting Two-rowed Barley shall be two-rowed barley of the class Barley which consists of the Betzes varietal type or two-rowed barley of the class Western Barley which consists of the Hannchen or Hanna varietal type; which does not contain more than 3.0 percent of varietal types of barley other than Betzes, Hannchen, or Hanna; which meets the requirements for grade No. 1 Western Barley except that the class requirements for Western Barley and the limitations on seeds of wild brome grasses shall be disregarded in determining the numerical grade; which has a test weight per bushel of 52 pounds or more; which contains 90 percent or more of mellow kernels: which is not semi-steely in mass; which does not contain more than 5.0 percent of thin barley; which does not contain more than 5.0 percent of skinned and/or broken kernels; and which does not contain barley injured by frost, by heat, or by mold; and shall not include barley of the special grades stained, smutty, garlicky, weevily, ergoty, or bleached.

(ii) Grade designation. Choice Malting Two-rowed Barley shall meet the special grade requirements for choice malting two-rowed barley and shall be graded and designated according to the class and grade requirements of the standards applicable to such barley if it were not Choice Malting Two-rowed, and there shall be added to and made a part of the grade designation, preceding the name of the class, the words

"Choice Malting Two-rowed".

(5) Malting Two-rowed Barley—(i) Requirements. Malting Two-rowed Barley shall be two-rowed barley of the class Barley which consists of the Betzes varietal type or two-rowed barley of the class Western Barley which consists of the Hannchen or Hanna varietal type: which does not contain more than 5.0 percent of varietal types of barley other than Betzes, Hannchen, or Hanna; which meets the requirements for any of the grades No. 1 to No. 3 Western Barley, inclusive, except that the class requirements for Western Barley and the limitation on seeds of wild brome grasses shall be disregarded in determining the numerical grade; which does not meet the requirements for the special grade Choice Malting Two-rowed Barley; which has a test weight per bushel of 50 pounds or more; which contains 70 percent or more of mellow kernels; which is not semi-steely in mass; which does not contain more than 10.0 percent of thin barley; which does not contain

more than 10.0 percent of skinned and/or broken kernels; and which does not contain barley injured by frost, by heat, or by mold; and shall not include barley of the special grades stained, blighted, smutty, garlicky, weevily, ergoty, or bleached: Provided, That Malting Two-rowed Barley of the grade No. 1 shall contain not less than 80 percent of mellow kernels; and may not contain more than 3.0 percent of varietal types of barley other than Betzes, Hannchen, or Hanna, or more than 7.0 percent of thin barley, or more than 7.0 percent of skinned and/or broken kernels.

(ii) Grade designation. Malting Two-rowed Barley shall be graded and designated according to the special grade requirements for malting two-rowed barley and to the class and grade requirements applicable to such barley if it were not Malting Two-rowed, and there shall be added to and made a part of the grade designation, preceding the name of the class, the words "Malting Two-rowed".

Public hearings will not be held on this proposal to amend the Official Grain Standards of the United States for Barley, but all persons who desire may submit written data, views, or arguments in connection with the aforesaid proposal to the Director, Grain Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., to be received by him not later than January 15, 1962. All documents should be filed in duplicate. Consideration will be given to the written data, views, and arguments received by the Director and to other information available in the United States Department of Agriculture before a decision is made as to whether the proposed amendments shall be promulgated.

Done at Washington, D.C., this 14th day of December 1961.

F. R. Burke, Acting Deputy Administrator, Agricultural Marketing Service.

[F.R. Doc. 61-12003; Filed, Dec. 18, 1961; 8:48 a.m.]

Agricultural Stabilization and Conservation Service

[ 7 CFR Parts 944, 947, 1050]

[Docket Nos. AO-339; AO-313-A3; AO-105-A14]

MILK IN CENTRAL ILLINOIS, SUBURBAN ST. LOUIS AND QUAD CITIES-DUBUQUE MARKETING AREAS

Notice of Hearing on Proposed Marketing Agreements and Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.),

and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held January 3, 1962, at the Holiday Inn, West Fayette Avenue, Effingham, Illinois, and at the Pere Marquette Hotel in Peoria, Illinois, beginning at 10:00 a.m., local time, on January 8, 1962, with respect to a proposed marketing agreement and order, regulating the handling of milk in the Central Illinois marketing area and proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Suburban St. Louis and Quad Cities-Dubuque marketing areas.

The public hearing is for the purpose of receiving evidence with respect to economic and marketing conditions which relate to the handling of milk in the proposed Central Illinois marketing area and in the Suburban St. Louis and Quad Cities-Dubuque marketing areas and to the alternative possibilities of expanding the Suburban St. Louis and Quad Cities-Dubuque marketing areas or of issuing a separate order to regulate the handling of milk in the Central Illinois marketing area which might include all or a portion of the area proposed to be added to the Suburban St. Louis and Quad Cities-Dubuque marketing areas.

The public hearing is also for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed marketing agreement and order proposals herein set forth and any appropriate modifications thereof for the purpose of determining (1) whether the handling of milk in the additional area proposed for regulation is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce, whether there is need for a marketing agreement or order regulating the handling of milk in such additional area, and (3) whether the provisions specified in the proposed new order for the Central Illinois marketing area or in the proposals for amendment of the Suburban St. Louis and Quad Cities-Dubuque marketing areas or some other provisions appropriate to the terms of the Agricultural Marketing Act of 1937, as amended, will tend to effectuate the declared policy of the Act.

The proposals set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Danville Producers Dairy, Champaign County Milk Producers Association and Peoria Milk Producers, Inc.:

Proposal No. 1.

### DEFINITIONS

### § 1050.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

### § 1050.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

### § 1050.3 Department.

"Department" means the United States Department of Agriculture.

#### § 1050.4 Person.

"Person" means any individual, partnership, corporation, association or other business unit.

### § 1050.5 Cooperative association.

"Cooperative association" means any cooperative association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act":

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members; and

(c) To have all of its activities under the control of its members.

### § 1050.6 Central Illinois marketing area.

"Central Illinois marketing area" (hereinafter called the marketing area) means all territory included within the perimeter boundaries of Champaign, De Witt, Fulton, Logan, Mason, Marshall, McLean, Piatt, Peoria, Tazewell, Vermilion, and Woodford Counties, all in Illinois.

### § 1050.7 Producer.

"Producer" means any person, except a producer handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority whose milk is:

(a) Received during the month at a pool plant; or

(b) Diverted from a pool plant by a handler to another pool plant or to a nonpool plant which is not a pool plant under the terms of another order issued pursuant to the Act for the account of the handler operating the pool plant or of a cooperative association, subject to the following conditions: The days of production of such person for which milk is diverted during the month may not exceed the days of production for which milk is received at a pool plant, otherwise such person will not be considered a producer with respect to any milk diverted. The milk so diverted to a nonpool plant shall be deemed to have been received at a pool plant at the location of the plant from which diverted.

### § 1050.8 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a distributing plant or a supply plant;

(b) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant; or

(c) A cooperative association with respect to Grade A milk it receives from dairy farmers in a tank truck, the operation of which is under the control of such cooperative association, and which is delivered in such tank truck to a pool plant: *Provided*, That such milk shall be deemed to have been received directly from producers at a pool plant at the location of the pool plant to which it is first delivered by the tank truck.

### § 1050.9 Producer-handler.

"Producer-handler" means any person who operates a distributing plant at which there is processed milk of such person's own farm production and at which there is received no milk from other dairy farmers and no other source milk in the form of fluid milk products: Provided, That such person provides proof satisfactory to the market administrator that:

(a) The care and management of all the dairy animals and other resources used in such own farm production are the personal enterprise or at the personal risk of such person; and

(b) The operation of the processing and distribution facilities is the personal enterprise of and at the personal risk of such person.

### § 1050.10 Distributing plant.

"Distributing plant" means a plant at which approved milk is processed, packaged and disposed of during the month as Class I milk in the marketing area on routes.

### § 1050.11 Supply plant.

"Supply plant" means a plant from which approved milk is moved during the month to a distributing plant but from which no packaged Class I milk is disposed of in the marketing area on routes.

### § 1050.12 Pool plant.

"Pool plant" means:

(a) A distributing plant from which during the month not less than 50 percent of total receipts of approved milk from dairy farmers, supply plants, and cooperative associations in their capacity as handlers pursuant to § 1050.8(c) is distributed as Class I milk on routes and from which not less than 20 percent of such Class I distribution is in the marketing area on routes, or

keting area on routes, or
(b) A supply plant from which during the month not less than 50 percent of approved milk from dairy farmers and from cooperative associations in their capacity as handlers pursuant to § 1050.8(c) is shipped to distributing pool plants: Provided, That if a supply plant qualifies as a pool plant pursuant to this section in each of the months of September through January such plant shall be a pool plant until the end of the following August, unless the plant operator requests in writing to the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such notice and thereafter until the plant qualifies as a pool plant on the basis of shipments.

### § 1050.13 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing, or processing plant other than a pool plant.

### § 1050.14 Producer milk.

"Producer milk" means only that skim milk and butterfat contained in milk received:

(a) At a pool plant from producers including that diverted from a pool plant to another pool plant or to a non-pool plant: and

(b) By a cooperative association in its capacity as a handler pursuant to § 1050.8 (b) and (c).

### § 1050.15 Approved milk.

"Approved milk" means any skim milk and butterfat contained in milk, skim milk or cream which is approved by a duly constituted health authority for distribution as Grade A milk.

### § 1050.16 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, milk drinks (plain or flavored), concentrated milk, reconstituted milk or skim milk, yogurt, cream (sweet or sour) or any mixture in fluid form of milk, skim milk and cream (except sterilized products packaged in hermetically sealed containers, eggnog, ice cream mix, aerated cream, and cultured sour mixtures other than sour cream).

### § 1050.17 Other source milk.

"Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month of fluid milk products except:

 Fluid milk products received from pool plants;

(2) Producer milk; or

(3) Opening inventory;

- (b) Products, other than fluid milk products, from any source, (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month; and
- (c) Any disappearance of nonfluid milk products not otherwise accounted for.

### § 1050.18 Route.

"Route" means disposition of fluid milk products (including disposition through a vendor and sales from a plant or plant store) to a wholesale or retail stop other than to a pool or nonpool plant.

### § 1050.19 Chicago butter price.

"Chicago butter price" means the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department.

### MARKET ADMINISTRATOR

### § 1050.25 Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

### § 1050.26 Powers.

The market administrator shall have the following powers with respect to this part:

- (a) To administer its terms and provisions:
- (b) To make rules and regulations to effectuate its terms and provisions;
- (c) To receive, investigate, and report to the Secretary complaints of violations; and
- (d) To recommend amendments to the Secretary.

### § 1050.27 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary:

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and

provisions;

(c) Obtain a bond in a reasonable amount, and with satisfactory surety thereon, covering each employee who handles funds entrusted to the market administrator:

(d) Pay out of the funds received pursuant to § 1050.86:

(1) The cost of his bond and of the bonds of his employees:

(2) His own compensation, and

(3) All other expenses, except those incurred under § 1050.85 necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and, upon request by the Secretary, surrender the same to such other person as the Secretary may

designate:

(f) Publicly disclose to handlers and producers, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any handler who after the date on which he is required to perform such acts, has not made reports pursuant to § 1050.30 through § 1050.33 or payments pursuant to §§ 1050.80 through 1050.86.

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary.

(h) On or before the 12th day after the end of each month report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the

purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler;

(i) Verify all reports and payments of each handler by audit, if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and by such other means as are necessary;

(j) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation of this part which do no reveal confidential in-

formation; and

(k) On or before the date specified publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, and mail to each handler at his last known address a notice of the following:

(1) The 6th day of each month, the Class I and Class II milk prices computed pursuant to § 1050.51 and butterfat differentials computed pursuant to § 1050.52 all for the preceding month; and

(2) The 11th day of each month, the uniform price computed pursuant to § 1050.71 and the producer butterfat differential, pursuant to § 1050.72, both for the preceding month.

REPORTS, RECORDS AND FACILITIES

# § 1050.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month each handler, for each of his pool plants, and each cooperative association which is a handler pursuant to § 1050.8 (b) or (c) shall report for such month to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in:

(1) Producer milk;

(2) Fluid milk products received from other pool plants and from a cooperative association in its capacity as a handler pursuant to \$ 1050.8(c);

(3) Other source milk;

(4) Inventories of fluid milk products on hand at the beginning of the month; and

(b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section and inventories of fluid milk products on hand at the end of the month; and

(c) Such other information with respect to his sources and utilization of butterfat and skim milk as the market administrator may prescribe.

### § 1050.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe;

(b) On or before the 7th day after the end of each month, each handler, except a producer-handler, who operates a nonpool plant from which fluid milk products are disposed of during the month in the marketing area on routes shall report to the market administrator the quantities of skim milk and butter-

fat so disposed of, and shall report the information required of handlers operating pool plants pursuant to § 1050.30 substituting receipts from dairy farmers for receipts from producers.

### § 1050.32 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler shall report to the market administrator in the detail and on forms prescribed by the market administrator his producer payroll for that month, which shall show for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The days for which milk was received from such producer if less than the entire month;

(4) The average butterfat content of such milk:

(5) The net amount of such handler's payment to the producer, together with the price paid and the amount and nature of any deductions; and

(b) On or before the day prior to diverting producer milk pursuant to § 1050.7 each handler shall report to the market administrator his intention to divert such milk, the date or dates of such diversion and the plant to which such milk is to be diverted.

### § 1050.33 Reports to cooperative associations.

Each handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to § 1050.80(b) shall report to such cooperative association or to the market administrator for transmittal to such cooperative association for each such producer on or before the 7th day of the following month:

(a) The pounds of milk received each day and the total for the month, together with the butterfat content of

such milk;

(b) The amount or rate and nature of any deductions to be made from payments; and

(c) The amount and nature of payments due pursuant to § 1050.84(c).

### § 1050.34 Records and facilities.

Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations and such facilities as the market administrator deems necessary to verify or establish the correct data for each month with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any

form;

(b) The weights and tests for butterfat and other content of all products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all items of products on hand at the beginning of and end of each month; and

(d) Payments to producers, including any deductions authorized by producers and disbursements of money so deducted.

# § 1050.35 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: Provided, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection herewith.

### CLASSIFICATION OF MILK

### § 1050.40 Skim milk and butterfat to be classified.

The skim milk and butterfat to be reported pursuant to §§ 1050.30 and 1050.31 shall be classified each month pursuant to the provisions of §§ 1050.41 through

### § 1050.41 Classes of utilization.

Subject to the conditions set forth in §§ 1050.42 through 1050.46 the classes of utilization shall be as follows:

(a) Class I milk. Class I milk shall be all skim milk and butterfat:

(1) Disposed of from the plant in the form of fluid milk products, except those classified pursuant to paragraph (b) (3), (4), and (5) of this section except that fluid milk products, which have been fortified by the addition of nonfat solids shall be Class I only up to the weight of an equal volume of an unmodified fluid milk product of the same nature and butterfat content, and

(2) Not specifically accounted for as

Class II milk; and

(b) Class II milk. Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Contained in inventories of fluid milk products on hand at the end of the month;

(3) Disposed of in bulk to any manufacturer of candy, soup or bakery products who does not dispose of milk in fluid form:

(4) Disposed of and used for livestock feed or dumped (skim milk portion only) subject to prior notification to and/or inspection (at his discretion) by the market administrator;

(5) Contained in that portion of fortified milk or skim milk not classified as Class I milk pursuant to paragraph

(a) (1) of this section;

(6) In actual shrinkage of skim milk and butterfat, respectively, allocated pursuant to § 1050.47(b) (2) not to exceed the following:

(i) Two percent of that received from producers except that diverted to a nonpool plant, plus

(ii) One and one-half percent of that received from pool plants of other handlers in bulk tank lots, plus

(iii) One and one-half percent of the receipts direct from the farm in bulk tanks from a cooperative association which is a handler for the milk pursuant to § 1050.8(c) except that if the handler operating the pool plant files with the market administrator notice that he is purchasing such milk on the basis of farm weights determined by farm bulk tank calibrations the applicable percentage shall be two percent, less

(iv) One and one-half percent of that disposed of in bulk tank lots to other plants except that diverted to a non-

pool plant; and

(7) In shrinkage of skim milk and butterfat, respectively, allocated to other source milk pursuant to § 1050.47(b) (1).

### § 1050.42 Responsibility of handlers.

All skim milk and butterfat to be classified pursuant to this part shall be classified as Class I milk, unless the handler who first receives such skim milk and butterfat establishes to the satisfaction of the market administrator that it should be classified as Class II

### \$ 1050.43 Transfers.

Skim milk and butterfat in fluid milk products transferred or diverted in bulk form from a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1050.8 (b) and (c) shall be classified as follows:

(a) As Class I if transferred to a pool

plant unless:

(1) The transferee and transferor-handlers claim Class II utilization in their reports submitted pursuant to § 1050.30;

(2) The transferee plant has utilization in Class II of an equivalent amount of skim milk and butterfat, respectively, after the subtractions pursuant to § 1050.45(a) (4) and the corresponding subtractions pursuant to § 1050.45(b): Provided, That if the transferee and transferor plants receive other source milk, the classification of the skim milk and butterfat transferred results in the highest valued class utilization to milk of producers; and

(3) The transfer is by a cooperative association, in which case the skim milk and butterfat transferred shall be allocated pro rata to the quantity remaining in each class after making the computations pursuant to § 1050.45(a) through (6) and the corresponding steps of § 1050.45(b).

(b) As Class I if moved to the plant of a producer-handler;

(c) As Class I (except that contained in cream which is moved to a nonpool plant pursuant to paragraph (e) of this section) if moved to a nonpool plant which is not the plant of a producerhandler unless:

(1) The transferee plant is located less than 200 miles from the intersection of U.S. Highways 54 and 150 at Farmer City, Illinois, by shortest highway distance as determined by the market administrator.

(2) The transferor-handler claims Farmer City, Illinois, by shortest highclassification of such skim milk and but-

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terfat in Class II in his report submitted pursuant to § 1050.30, and

(3) The operator of the transferee plant maintains books and records which verify the claimed utilization of skim milk and butterfat to the satisfaction of the market administrator and which are made available if requested by the market administrator:

(d) As Class I (except that contained in cream which is moved to a nonpool plant pursuant to paragraph (e) of this section) if moved to a nonpool plant to the extent of the following pro rata computation if the skim milk and butterfat is not classified as Class I milk pursuant to paragraph (c) of this section:

(1) From the total skim milk and butterfat, respectively, disposed of from such nonpool plant and classified as Class I milk pursuant to the classification provisions of this part applied to such nonpool plant, subtract the skim milk and butterfat received at such plant directly from dairy farmers who are approved to supply Grade A milk and who the market administrator determines constitute the regular source of supply for such nonpool plant:

(2) From the remaining amount of skim milk and butterfat, respectively, classified as Class I milk at such nonpool plant subtract any Class I milk received in consumer-type packages from a plant fully regulated by this or another Federal order issued pursuant to the Act;

(3) Prorate the remaining Class I milk to bulk receipts at the nonpool plant from plants which are fully subject to the classification and pricing provisions of this and other Federal milk orders issued pursuant to the Act:

(e) As Class II milk if moved in fluid form as cream to a nonpool plant located more than 200 miles from the intersection of U.S. Highways 54 and 150 at Farmer City, Illinois, if the following conditions are met:

(1) The transferor-handler establishes that such cream was transferred without Grade A certification;

(2) The shipment was invoiced accordingly; and

(3) The market administrator was given sufficient notice to allow him to verify the conditions of shipment.

### § 1050.44 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 1050.30, and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk at all of the pool plants of such handler, or in the case of a cooperative association, for that milk received pursuant to § 1050.8 (b) and (c): Provided, That the skim milk contained in any product utilized, produced, or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat solids contained in such product, plus all the water originally associated with such solids.

§ 1050.45 Allocation of skim milk and butterfat classified.

(a) The pounds of skim milk remaining in each class after making the following computations each month with respect to the pool plant(s) of each handler, shall be the pounds of skim milk in such class allocated to the producer milk of such handler for such month:

(1) Subtract from the total pounds of skim milk in Class II milk the shrinkage of skim milk classified as Class II milk

pursuant to § 1050.41(b) (6);

(2) Subtract from the pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk which is not subject to the pricing and pooling provisions of another order issued pursuant to the Act:

(3) Subtract from the pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk which are pooled but not priced as Class I under the provisions of another order issued pur-

suant to the Act:

(4) Subtract from the pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk which are pooled and priced as Class I under the provisions of another order issued pursuant to the Act:

(5) Subtract the pounds of skim milk in fluid milk products received from other pool plants and from cooperative associations which are the handlers for the milk pursuant to § 1050.8(c) from the pounds of skim milk in the respective classes in which such skim milk is classified pursuant to § 1050.43(a);

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II milk the pounds of skim milk contained in inventory of fluid milk products on hand at the be-

ginning of the month;

(7) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(8) If the pounds of skim milk remaining in all classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the pounds of skim milk remaining in series beginning with Class II milk. Any amount so subtracted shall be known as 'overage".

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the manner prescribed in paragraph (a) of this section for determining the allocation of skim milk to

producer milk; and

(c) Add the pounds of skim milk and pounds of butterfat remaining in producer milk in each class pursuant to paragraphs (a) and (b) of this section and determine the percentage of butterfat in producer milk in each class.

### § 1050.46 Inventory reclassification.

From any skim milk or butterfat assigned to Class I milk pursuant to § 1050.45(a) (5) and the corresponding step in § 1050.45(b) subtract in the fol-

lowing order the skim milk and butterfat. respectively, assigned during the preceding month to Class II milk (except shrinkage) pursuant to § 1050.45 in:

(a) Producer milk, and

(b) Other source milk classified and priced as Class I milk pursuant to another Federal order.

### § 1050.47 Shrinkage.

The market administrator shall allocate shrinkage to each pool plant and to a cooperative association in its capacity as a handler pursuant to § 1050.8(c) as follows:

(a) Compute the total shrinkage of skim milk and butterfat; and

(b) Prorate the resulting amounts between (1) skim milk and butterfat in other source milk received in bulk fluid form, and (2) skim milk and butterfat in producer milk (excluding diverted milk) and in bulk fluid receipts from other pool plants and from cooperative associations in their capacity as handlers pursuant to § 1050.8(c).

### MINIMUM PRICES

### § 1050.50 Basic formula price.

The higher of the prices computed pursuant to paragraph (a) or (b) of this section, rounded to the nearest whole cent, shall be known as the basic formula price.

(a) The average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the delivery period, adjusted to a 3.5 percent butterfat basis by the butterfat differential pursuant to § 1050.72 and rounded to the nearest full cent.

(b) The price per hundredweight computed by adding together the plus values of subparagraphs (1) and (2) of

this paragraph:

(1) From the Chicago butter price, subtract 3 cents, add 20 percent thereof,

and multiply by 3.5.

(2) From the simple average as computed by the market administrator of the weighted averages of the carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, deduct 5.5 cents and multiply by 8.2.

### § 1050.51 Class prices.

Subject to the provisions of §§ 1050.52 and 1050.53, the minimum class prices per hundredweight of milk containing 3.5 percent butterfat to be paid by each handler for milk received at his pool plant from producers during the month shall be determined as follows:

(a) Class I milk price. For the first 18 months, the Class I milk price each month shall be the basic formula price for the immediately preceding month plus \$1.15: Provided, That such Class I price shall be adjusted by the same rate as is made for the same month under the Chicago, Illinois, Federal Order (Part 941 of this chapter).

(b) Class II milk price. The Class II milk price shall be the price computed pursuant to § 1050.50(a).

### § 1050.52 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices calculated pursuant to § 1050.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) Class I price. Multiply the Chicago butter price for the month by 0.12; and

(b) Class II price. Multiply the Chicago butter price for the month by 0.12.

### § 1050.53 Location differentials to handlers.

For producer milk received at a pool plant located outside the marketing area and 80 miles or more from the intersection of U.S. Highways 54 and 150 at Farmer City, whichever is nearer by the shortest hard-surfaced highway distance as determined by the market administrator, and which is classified as Class I milk, the price specified in § 1050.51(a) shall be reduced at the rate set forth in the following schedule:

hundredmeight. (cents)

Distance (miles): 80 miles but not more than 90\_\_\_ 10.0 For each additional 10 miles or

fraction thereof\_\_\_

Provided, That for the purpose of calculating such location differential, transfers of milk, skim milk and cream between pool plants shall be assigned to Class I milk in a volume not in excess of that by which Class I disposition at the transferee plant exceeds receipts from producers and from cooperative associations in their capacity as handlers pursuant to § 1050.8(c), such assignment to transferor plants to be made first to plants at which no location credit is applicable and then in sequence beginning with the plant at which the lowest location differential would apply.

# § 1050.54 Rate of compensatory pay-

The rate of compensatory payment per hundredweight shall be calculated as follows: Subtract the Class II milk price, adjusted by the Class II butterfat differential, from the Class I milk price adjusted by the Class I butterfat differential and the Class I location differential rates set forth in § 1050.53 for the location of the plant at which the milk was received from farmers.

### APPLICATION OF PROVISIONS

### § 1050.60 Producer-handler.

Sections 1050.40 through 1050.47, 1050.-50 through 1050.53, 1050.61 through 1050.63, 1050.70 through 1050.74, and §§ 1050.80 through 1050.87 shall not apply to a producer-handler.

### § 1050.61 Plants subject to other Federal orders.

A plant specified in paragraph (a) or (b) of this section shall be treated as a nonpool plant, except that the operator of such plant shall, with respect to total receipts and utilization or disposition of skim milk and butterfat at the plant. make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(a) Any plant qualified pursuant to § 1050.12(a) which disposes of a lesser volume of Class I milk in the Central Illinois marketing area than in a marketing area where the handling of milk is regulated pursuant to another part issued pursuant to the Act, and which is subject to the classification and pricing provisions of such other part is exempted pursuant to this paragraph from regulation as a pool plant under this part, unless the Secretary determines otherwise;

(b) Any plant qualified pursuant to § 1050.12(b) for any portion of the period February through August, inclusive, that the milk of producers at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act and the Secretary determines that such plant should be exempted from this part.

### § 1050.62 Handlers operating nonpool distributing plants.

In lieu of payments required pursuant to §§ 1050.80 through 1050.85, each handler, other than a producer-handler or one exempt pursuant to § 1050.61, who operates, during the month, a nonpool distributing plant, shall pay to the market administrator for deposit in the producer-settlement fund and the administrative assessment fund, as the case may be, as follows:

(a) If such handler so elects in writing at the time of reporting pursuant to § 1050.30, the amounts computed as follows:

(1) On or before the 13th day after the end of the month, for the producersettlement fund, an amount equal to the difference between the value of the Class I milk disposed of during the month in the marketing area on routes at the applicable Class I price for the month and the value of such milk at the Class II price: and

(2) On or before the 13th day after the end of the month, as his pro rata share of the expense of administration, the rates specified in § 1050.86 with respect to Class I milk disposed of in the marketing area on routes: or

(b) Except as the handler may elect the option pursuant to paragraph (a) of this section, he shall pay the amounts as follows:

(1) On or before the 25th day after the end of the month, for the producersettlement fund, the amounts specified in paragraph (a) (1) of this section, or any plus amount resulting from the following computations, whichever is less;

(i) Compute an amount equal to the value of milk which would be computed pursuant to § 1050.70 for milk received from dairy farmers at such plant for such month if such plant had been a pool plant: and

(ii) Deduct the gross payments made by the handler to dairy farmers for milk received at such plant for such month. Cross payments to be included in this

computation shall be limited to cash payments made to the dairy farmer or his assignee on or before the date of the report pursuant to § 1050.31(b), plus the value of any supplies as evidenced by a delivery ticket signed by the dairy farmer; and

(2) On or before the 13th day after the end of the month, as his pro rata share of the expense of administration, an amount equal to that which would have been computed pursuant to § 1050.86 had such plant been a pool plant.

DETERMINATION OF PRICES TO PRODUCERS

### § 1050.70 Computation of the obligation of each pool handler.

For each month the market administrator shall compute the obligation of each pool handler as follows:

(a) Multiply the quantity of producer milk in each class by the applicable class price, as adjusted by location differentials on the amount of milk to which location differential allowance applies pursuant to § 1050.53;

(b) In any month when producer receipts are at least 110 percent of Class I sales (excluding duplications), add an amount computed by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1050.45(a) (2) and (3) and (b) by the rate of compensatory payment as determined pursuant to § 1050.54 for the nearest plant(s) from which an equivalent amount of other source milk was received in the form of fluid milk prod-

(c) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 1050.45 (a) (8) and (b) by the applica-

ble class price; and
(d) Add (1) the amount obtained by multiplying the hundredweight of skim milk and butterfat subtracted pursuant to § 1050.46(a) by the difference between the Class II price for the preceding month and the Class I price for the current month, and (2) the amount obtained by multiplying the hundredweight of skim milk and butterfat remaining after the calculation pursuant to § 1050.46(b) by the rate of compensatory payments pursuant to § 1050.54.

# § 1050.71 Computation of the uniform

For each month the market administrator shall compute the uniform price per hundredweight of producer milk of 3.5 percent butterfat content, f.o.b. marketing area as follows:

(a) Combine into one total the obligation computed pursuant to § 1050.70 for all handlers who submit reports prescribed in § 1050.30 and who are not in default of payments pursuant to § 1050 .-80 or § 1050.82:

(b) Subtract, if the average butterfat content of the producer milk included under paragraph (a) of this section is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1050.72 and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the sum of deductions to be made from producer payments for location differentials pursuant to § 1050.73;

(d) Subtract for each month of April through July an amount obtained by multiplying the hundredweight of pro-

ducer milk by 25 cents;

(e) Add an amount equal to one-half of the unobligated balance on hand in the producer-settlement fund, exclusive of amounts subtracted pursuant to paragraph (d) of this section;

(f) Divide the resulting amount by the total hundredweight of producer milk included under paragraph (a) of this

section; and

(g) Subtract not less than 4 cents nor more than 5 cents.

# § 1050.72 Butterfat differential to producers.

The applicable uniform price to be paid each producer shall be increased or decreased for each one-tenth of one percent by which the average butterfat content of his milk is above or below 3.5 percent, respectively, by an amount determined by multiplying the pounds of butterfat in producer milk allocated to each class by the appropriate butterfat differential for such class as determined pursuant to § 1050.52, dividing by the total butterfat in producer milk and rounding to the nearest tenth of a cent.

# § 1050.73 Location differential to producers.

The applicable uniform price to be paid for producer milk received at a pool plant located outside the marketing area and 80 miles or more from the intersection of U.S. highways 54 and 150 at Farmer City, Illinois, whichever is nearest by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be reduced at the rates set forth in § 1050.53.

### § 1050.74 Notification of handlers.

On or before the 11th day after the end of each month, the market administrator shall mail to each handler, who submitted the report(s) prescribed in § 1050.30 and § 1050.31 at his last known address, a statement showing:

(a) The amount and value of his producer milk in each class and the totals

thereof;

- (b) The uniform price computed pursuant to § 1050.71 and the butterfat differential computed pursuant to § 1050.72; and
- (c) The amounts to be paid by such handler pursuant to §§ 1050.62, 1050.82, 1050.85 or 1050.86 and the amount due such handler pursuant to § 1050.83.

### PAYMENTS

### § 1050.80 Time and method of payment.

Each handler shall make payment as follows:

(a) To each producer from whom milk is received during the month and to whom payment is not made pursuant to paragraph (b) of this section, on or before the 15th day of the following month, an amount equal to not less than

the uniform price adjusted by the butterfat and location differentials to producers multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments:

(1) Less marketing service deductions

made pursuant to § 1050.85;

(2) Plus or minus adjustments for errors made in previous payments made to such producer; and

(3) Less proper deductions authorized in writing by such producer: Provided, That, if by such date, such handler has not received full payment from the market administrator pursuant to § 1050.83 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, such handler shall. on or before the second day prior to the date on which payments are due individual producers, pay the cooperative association for milk received during the month from the producer members of such association as determined by the market administrator an amount equal to not less than the amount due such producer members as determined pursuant to paragraph (a) of this section: Provided, That the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association.

(c) On or before the 10th day of the following month for milk received from a cooperative association for which it is a handler pursuant to § 1050.8(c) at not less than the value of such milk at the applicable class prices.

### § 1050.81 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to § 1050.62(a), § 1050.82, and § 1050.84 and out of which he shall make all payments pursuant to § 1050.83 and § 1050.84: Provided, That any payments due to any handler shall be offset by any payments due from such handler.

### § 1050.82 Payments to the producersettlement fund.

On or before the 12th day after the end of each month, each handler, including a cooperative association which is a handler, shall pay to the market administrator any amount by which his obligation as computed pursuant to § 1050.70 for such month, is greater than the amount owed by him for such milk at the appropriate uniform price adjusted by the producer butterfat and location differentials.

### § 1050.83 Payments out of the producersettlement fund.

(a) On or before the 13th day after the end of each month, the market administrator shall pay to each handler any amount by which his obligation as computed pursuant to § 1050.70, for such month is less than the amount owed by him for such milk at the appropriate uniform price adjusted by the producer butterfat and location differentials. If at such time the balance in the producer-settlement fund is insufficient to make all payment pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

(b) On or before the 13th day after the end of each month of October, November, and December the market administrator shall pay to (1) each handler on all milk for which payment is to be made to producers pursuant to § 1050.80 (a) for such month, and (2) to each cooperative association on all producer milk for which such association is receiving payments pursuant to § 1050.80 (b) or (c) for such month at the following rate per hundredweight: For each of the months of October and November divide one-third of the aggregate amount set aside in the producer-settlement fund pursuant to § 1050.71(d) for the immediately preceding months of April through July and for the month of December divide the balance remaining, by the hundredweight of producer milk received during the month, computed to the nearest cent per hundredweight.

### § 1050.84 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, accounts, or other verification discloses errors resulting in monies due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall prompty notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

### § 1050.85 Marketing services.

(a) Except as set forth in paragraph of this section, each handler, in making payments to producers for milk pursuant to § 1050.80, shall deduct 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association;

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each

handler shall (in lieu of the deduction specified in paragraph (a) of this section), make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month. pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deduction and the amount of milk for which such deduction is computed for each producer.

### § 1050.86 Expenses of administration.

On or before the 15th day after the end of each month, each handler shall pay to the market administrator, 4 cents or such lesser amount as the Secretary may prescribe, for each hundredweight of butterfat and skim milk contained in:

(a) Producer milk, except producer milk received by a cooperative association as a handler pursuant to § 1050.8

(c):

(b) Milk received from a cooperative association as a handler pursuant to § 1050.8(c); and

(c) Other source milk allocated to Class I milk pursuant to § 1050.45 (a) (2) and (b).

handler operating a distributing plant which is a nonpool plant shall pay administrative assessments pursuant to § 1050.62.

## § 1050.87 Adjustment of overdue ac-

Any unpaid obligation of a handler or of the market administrator pursuant to §§ 1050.82, 1050.83, 1050.85, or 1050.86 shall be increased one-half of one percent on the first of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

### § 1050.88 Termination of obligations.

The provisions of this section shall apply to any obligations under this part

for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation; (2) The month(s) during which the

milk, with respect to which the obligation exists was received or handled; and (3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account of which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this part. to make available to the market administrator or his representative all books and records required by this part to be made available, the market administrator may. within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market adminstrator or his representative;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact. material to the obligation, on the part of the handler against whom the obligation

is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed or two years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator was made by the handler, if a refund on such payment is claimed, unless such handler, within the appli-cable period of time, files, pursuant to section 608c(15)(A) of the Act, a petition claiming such money.

### EFFECTIVE TIME, SUSPENSION, OR TERMINATION

### § 1050.100 Effective time.

The provisions of this part, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

### § 1050.101 Suspension or termination.

The Secretary shall, whenever he finds that any or all provisions of this part, or any amendment thereto, obstruct or do not tend to effectuate the declared policy of the act, terminate or suspend the operation of any or all provisions of this part or any amendment thereto.

### § 1050.102 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, or any amendments thereto, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

### § 1050.103 Liquidation.

Upon the suspension or termination of any or all provisions of this part, the market administrator, or such other liquidating agent as the Secretary may

designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If. upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

### MISCELLANEOUS PROVISIONS

### § 1050.110 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent and representative in connection with any of the provisions of this part.

### § 1050.111 Separability of provisions.

If any provisions of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Proposal No. 2. Consider also whether an individual handler pool might be more

Proposed by Pure Milk Association: Proposal No. 3. Include in § 1050.6 in

the definition of marketing area the following counties: Bureau, Warren, Knox. Livingston, La Salle, Putnam, Stark, and Grundy.

Proposal No. 4. Define a supply plant, § 1050.11, as follows:

"Supply plant" means a plant from which approved milk is moved during the month to a distributing plant.

Proposal No. 5. Provide in § 1050.43 (c) (1) that transfers be classified in Class II under specified conditions if the transferee plant is located less than 200 miles from the intersection of U.S. Highways 54 and 150 at Farmer City, Illinois or 200 miles from the pool plant, by shortest highway distance as determined by the market administrator.

Proposal No. 6. Renumber § 1050.45, paragraph (a), subparagraphs (2) through (8) as (3) through (9) and provide a new subparagraph (2) as

follows:

(2) Subtract from the total pounds of skim milk in Class I milk the pounds of skim milk in Class II products received in consumer packages and disposed of in the same packages, if such skim milk is subject to the Class I pricing provisions of another order issued pursuant to the Act: Provided, That the same Class I products are not processed and packaged in containers of the same type and size in the plant during the month.

Proposal No. 7. Provide a basic formula price as follows:

### § 1050.50 Basic formula price.

The higher of the prices computed pursuant to paragraph (a) or (b) of this section rounded to the nearest whole cent shall be known as the basic formula

(a) The average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department for the delivery period, adjusted to a 3.5 percent butterfat basis by the butterfat differential pursuant to § 1050.72 rounded to the nearest full cent.

(b) The average of the prices per hundredweight reported to have been paid, or to be paid, for the delivery period next preceding, to farmers for milk containing 3.5 percent butterfat delivered at each of the following listed manufacturing plants or places for which prices are reported to the United States Department of Agriculture or to the market administrator:

#### Companies and Locations

Borden Co., New London, Wis. Borden Co., Orfordville, Wis. Carnation Co., Richland Center, Wis. Pet Milk Co., Belleville, Wis. Pet Milk Co., Coopersville, Mich. Pet Milk Co., New Glarus, Wis. Pet Milk Co., Wayland, Mich. White House Milk Co., Manitowoc, Wis. White House Milk Co., West Bend, Wis.

### Proposal No. 8. Provide a § 1050.51(a) as follows:

(a) Class I milk price. For the first 18 months, the Class I milk price each month shall be the basic formula price for the immediately preceding month plus the following amounts for the delivery periods indicated:

August, September, October, and No-\$1.54 vember\_ December, January, February, and March, April, May, and June\_\_\_\_\_ 1.14

Provided, That such Class I price shall be adjusted by the same rate as is made for the same month under the Chicago, Illinois, Federal order (Part 941 of this chapter).

Proposed by Beatrice Foods Company: Proposal No. 8A. The marketing area should be defined as follows:

### § 1050.6 Central Illinois marketing area.

"Central Illinois marketing area" means all the territory, including any Federal, State or municipal institutions located partially or wholly within the counties of Bureau, Champaign, DeWitt, Ford, Fulton, Grundy, Henry, Iroquois, Kankakee, Knox, La Salle, Livingston, Logan, McDonough, McLean, Marshall, Mason, Mercer, Peoria, Piatt, Putnam, Stark, Tazewell, Vermilion, Warren, and Woodford, all located in the State of

Proposed by the Borden Company: Proposal No. 9.

### § 1050.6 Central Illinois marketing area.

The "Central Illinois marketing area" means the territory within the Illinois counties of Champaign, DeWitt, Fulton, Logan, Mason, Marshall, McLean, Piatt, Peoria, Tazewell, Vermilion, Knox,

Woodford, Sangamon, Macon, Moultrie, Morgan, Coles, Christian and Shelby, including the territory within such boundaries that is occupied by government (Municipal, State or Federal) reservations, installations, institutions or other establishments.

Proposal No. 10.

### § 1050.7 Producer.

"Producer" means any person, except a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority whose milk is:

(a) Received during the month at a

pool plant:

(b) Diverted for the account of the operator of a pool plant to another pool

plant; or

(c) Diverted from a pool plant to a nonpool plant for the account of the operator of a pool plant or a cooperative association: Provided, That for each of the months of October through December diversion of the milk of any such person shall be limited to 18 days (9 days in the case of every-other-day delivery) during such month.

Proposal No. 11.

#### § 1050.41 Classes of utilization.

Fluid milk products fortified with nonfat milk solids should be classified as Class I up to the weight of an unmodified product of the same nature and butterfat content. The skim milk equivalent of the added solids in excess of such weight should be classified as Class II.

Proposal No. 12. Section 1050.43(c) should read as follows:

- (c) As Class I (except that contained in cream which is moved to a nonpool plant) if moved to a nonpool plant which is not the plant of a producer-handler unless:
- (1) The transferee plant is located less than 400 miles from the intersection of U.S. Highways 54 and 150 at Farmer City, Illinois, by shortest highway distance as determined by the market administrator.

(2) The transferor-handler claims classification of such skim milk and butterfat in Class II as in report; and

(3) The operator of the transferee plant maintains books and records which verify the claimed utilization to the satisfaction of the market adminis-

Add a new subpara-Proposal No. 13. graph (2) to § 1050.45(a) and renumber subparagraphs (a) (2) through (8) as (a) (3) through (9).

(2) Subtract from the pounds of skim milk and butterfat in Class I the pounds of skim milk and butterfat in buttermilk, flavored milk, flavored milk drinks, cultured milk, cultured milk drinks, skim milk, skim milk drinks, fortified skim milk and cream drinks (sweet, sour and cultured), sour cream dips which are subject to pricing as Class I milk under another Federal order and received in consumer-type packages.

Proposal No. 14. Section 1050.51(a) should read as follows:

(a) The Class I milk price shall be the price for Class I milk established under Federal Order No. 41, as amended, regulating the handling of milk in the Chicago, Illinois, marketing area, plus eighteen cents.

Proposal No. 15.

### § 1050.53 Location differentials to handlers.

For producer milk received at a pool plant located outside the marketing area and 140 miles or more from the intersection of U.S. Highways 54 and 150 at Farmer City, Illinois, whichever is nearer by the shortest hard-surfaced highway distance as determined by the market administrator, and which is classified as Class I milk, the price shall be reduced at the rate set forth in the following schedule:

hundredweight Distance (miles): (cents) 10.0 140 but not more than 150\_. For each additional 10 miles or fraction thereof

Rate per

Proposal No. 16.

#### § 1050.73 Location differentials to producers.

The location differentials to producers to be at the same schedule as in "location differentials to handlers".

Proposed by Sunshire Dairy, Inc., and Senn-Solwedel Company:

Proposal No. 17.

#### § 1050.6 Marketing area.

"Central Illinois marketing area" (hereinafter called the marketing area) means all territory included within the perimeter boundaries of Champaign, DeWitt, Logan, McLean, Piatt, Peoria, Tazewell, Vermilion, Woodford, Fulton, and Knox Counties, all in Illinois.

Proposal No. 18.

### § 1050.12 Pool plant.

"Pool plant" means a plant described in paragraph (a), (b), or (c) of this section except as provided in § 1050: Provided, That if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authorities for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section:

(a) A distributing plant from which a volume of Class I milk not less than 35 percent of the Grade A milk received at such plant from dairy farmers and from other plants is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except plants) and not less than 15 percent of such receipts are so disposed of to such outlets in the marketing area;

(b) A supply plant from which the volume of fluid milk products shipped during the month to plants qualified pursuant to paragraph (a) of this section is not less than 35 percent of the Grade A milk received at such plant from dairy

farmers during such month: Provided, That if such shipments are not less than 50 percent of the receipts of Grade A milk directly from dairy farmers at such plant during the immediately preceding period of September through November. such plant shall be a pool plant for the months of December through August. unless written application is filed with the market administrator on or before the 1st day of any of the months of December through August to be designated a nonpool plant for such month and for each subsequent month through August:

(c) A plant operated by a cooperative association from whose members the total pounds of producer milk received at the pool plants of other handlers during the month, or during the 12-month period immediately preceding such month, are more than the total pounds of Grade A milk received at its plant from dairy farmers during the corresponding period: Provided, That if written application is filed with the market administrator on or before the 5th day of any month such plant may be designated a nonpool plant for such month and for any subsequent months.

Proposal No. 19.

### § 1050.16 Fluid milk product.

"Fluid milk product" means all skim milk and butterfat disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, milk drinks (flavored or plain), concentrated milk, fortified milk or skim milk, cream (sweet or sour), and any mixture of milk skim milk or cream (except sterilized products packaged in hermetically sealed containers, eggnog, frozen dessert mixes, ice cream mixes, aerated cream, and cultured sour mixtures other than sour cream).

Proposal No. 20.

### § 1050.41 Classes of utilization.

Subject to the conditions set forth in § 1050.42 through § 1050.46, the classes of utilization shall be as follows:

(a) Class I milk. Class I milk shall

be all skim milk and butterfat:

- (1) Disposed of in the form of a fluid milk product except those classified pursuant to paragraph (b) (3), (4), and (5) of this section except that fluid milk products which have been fortified by the addition of nonfat solids shall be Class I only up to the weight of an equal volume of an unmodified fluid milk product of the same nature and butterfat content, and
- (2) Not specifically accounted for as Class II milk; and

(b) Class II milk. Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

- (2) Contained in inventories of fluid milk products on hand at the end of the month;
- (3) Used for starter churning and disposed of in bulk to any manufacturer of candy, soup or bakery products who does not dispose of milk in fluid form;

(4) Disposed of and used for livestock feed or dumped subject to prior notification to and an inspection (at his discretion) by the market administrator:

(5) Contained in that portion of fortified milk or skim milk not classified as Class I milk pursuant to paragraph (a) (1) of this section:

(6) In shrinkage of producer milk not

in excess of 2 percent; and

(7) In shrinkage of other source milk.

Proposal No 21

### § 1050.53 Location differentials to han-

For producer milk received at a pool plant located outside the marketing area and 40 miles or more from the intersection of U.S. Highways 54 and 150 at Farmer City, Illinois, whichever is nearer by the shortest hard-surfaced highway distance as determined by the market administrator, and which is classified as Class I milk, the price specified in § 1050.51(a) shall be reduced at the rate set forth in the following schedule:

> Rate per hundredweight (cents)

Distance (miles): 40 but not more than 50\_

10.0 For each additional 10 miles or fraction thereof\_\_\_\_\_

Provided, That for the purpose of calculating such location differential, transfers of milk, skim milk and cream between pool plants shall be assigned to Class I milk in a volume not in excess of that by which Class I disposition at the transferee plant exceeds receipts from producers and from cooperative associations in their capacity as handlers pursuant to § 1050.8(c), such assignment to transferor plants to be made first to plants at which no location credit is applicable and then in sequence beginning with the plant at which the lowest location differential would apply.

Proposal No. 22.

### § 1050.73 Location differential to producers.

The applicable uniform price to be paid for producer milk received at a pool plant located outside the marketing area and 40 miles or more from the intersection of U.S. Highways 54 and 150 at Farmer City, Illinois, whichever is nearest by shortest hard-surfaced highway distance, as determined by the market administrator, shall be reduced at the rates set forth in § 1050.53.

Proposed by Walther Dairy, Inc.: Proposal No. 23.

### § 1050.53 Handler location allowance.

The handler location allowance for a supply plant located 150 miles or more from the intersection of U.S. Highways 54 and 150 at Farmer City, Illinois, is as follows:

Rate per hundredweight

Distance from Farmer City (miles): (cents) 150 to 160 miles\_\_\_ 10.0

For each additional 10 miles or fraction thereof\_\_\_\_\_

Proposal No. 24. Change the 200 mile transfer location adjustment in § 1050.43 (c) (1) to 375 miles from the intersection of U.S. Highways 54 and 150 at Farmer City, Illinois, or 150 miles from a supply plant or a pool plant.

Proposal No. 25. In § 1050.71(d) the twenty-five cent per hundredweight deduction in April, May, June and July should be reduced to ten cents per

hundredweight.

Proposal No. 26. The producer location allowance (§ 1050.73) should be the same as "handler location allowance" (§ 1050.53).

PROPOSALS TO AMEND THE SUBURBAN ST. LOUIS MARKETING AREA

Proposed by Sanitary Milk Producers and Pure Milk Association:

Proposal No. 1. Amend § 947.6. marketing area, by including all of the territory in the County of Saline in the Base Zone and all of the territory in the Counties of Christian, Moultrie, Coles, Shelby, Macon, and Sangamon in the Northern Zone, all in the State of Illinois.

Proposal No. 2. Amend § 947.7 to read as follows:

§ 947.7 Producer.

"Producer" means any person, except a producer-handler or a dairy farmer for other markets, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is:

(a) Delivered from a farm to a pool

plant, or

- (b) Diverted to a nonpool plant which is not a pool plant under the terms of another order issued pursuant to the
- (1) By a cooperative association in its capacity as a handler pursuant to § 947.9(c), any number of days during the months of March through July or for a period not in excess of 16 days production during each of the months of August through February; or
- (2) By a handler who operates a pool plant any number of days during the months of March through July: Provided, That milk so diverted pursuant to subparagraph (1) and (2) of this paragraph shall be deemed to have been received at the plant from which diverted. except that milk diverted from a pool distributing plant to a nonpool plant located more than 150 airline miles from the U.S. Post Office in Carlyle, Illinois. shall be deemed to have been received at a pool plant at the same location as the nonpool plant to which diverted.

Proposal No. 3. Delete § 947.41(a) (1) and substitute therefor the following:

(1) Disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, milk drinks (plain or flavored), concentrated milk, fortified milk or skim milk, reconstituted milk or skim milk, diet foods, cream (sweet or sour) and mixtures of milk, skim milk or cream (except frozen dessert mixes, eggnog, aerated cream. sterilized products in hermetically sealed containers and cultured sour mixtures to which cheese or other food substance. other than a milk product, has been added and which contain butterfat equal to not more than 15 percent of the finished product).

Proposal No. 4. Amend § 947.41 (b) (2) by renumbering subparagraphs (3), (4), and (5) as (4), (5), and (6) and adding a new subparagraph (3) as follows:

(3) That portion of milk equivalent used to fortify diet foods.

Proposal No. 5. Delete renumbered subparagraph (6) of § 947.41(b) and substitute therefor the following:

(6) In actual shrinkage of skim milk and butterfat, respectively, not to exceed the following:

(i) Two percent of that received from dairy farmers excluding that which is diverted pursuant to § 947.7, plus

(ii) One and one-half percent of that contained in milk received in bulk tank lots, excluding that contained in milk received from dairy farmers, less

(iii) One and one-half percent of that contained in milk disposed of in bulk tank lots to other plants, excluding milk diverted pursuant to § 947.7: Provided, That shrinkage of skim milk and butterfat not in excess of the percentages specified herein shall be assigned pro rata pursuant to this subparagraph to skim milk and butterfat, respectively, in approved milk received from producers and from other pool plants and in other source milk.

Proposal No. 6. Delete § 947.43(c) (1) and substitute therefor the following:

(1) Transferee plant is located less than 200 airline miles from the U.S. Post Office in Carlyle, Illinois, or less than 50 airline miles from transferor plant, as determined by the market administrator.

Proposal No. 7. Delete § 947.46. Proposal No. 8. Delete § 947.51(a) and substitute therefor the following:

(a) Class I price. The price per hundredweight of Class I milk at plants located in the Base Zone shall be 10 cents less and at plants located in the Northern Zone shall be 15 cents less than the St. Louis Federal Milk Order (Part 903 of this chapter) Class I price effective at a pool plant located in the zero to 30 mile zone.

Proposal No. 9. Amend § 947.52 by deleting that portion of the section prior to the proviso and substituting therefor the following:

For producer milk which is received at a pool plant located 100 airline miles or more from the main U.S. Post Office in Carlyle, Illinois, as determined by the market administrator and which is classified as Class I milk the price specified in § 947.51 (a) for plants located in the Base Zone shall be reduced at the rate set forth in the following schedule:

Rate per hundredweight (cents)

Proposal No. 10. Delete § 947.55 and substitute therefor the following:

§ 947.55 Rate of payment on unpriced milk.

The rate of payment per hundredweight on unpriced Class I milk shall be calculated as follows:

Subtract the Class II price, adjusted by the Class II butterfat differential, from the applicable Class I price adjusted by the Class I butterfat differential and the Class I location differential at the location of the plant from which such milk is supplied.

Proposal No. 11. Amend § 947.62 by inserting immediately before § 947.62 (b) (1) (i) the following language:

Provided, That the payment shall not be less than the amount equal to the difference between the uniform price and the Class I price times the pounds of Class I disposed of in the area.

Proposal No. 12. Delete § 947.81 and substitute therefor the following:

## § 947.81 Butterfat differentials to producers.

In making payments for milk received from producers pursuant to § 947.80, the uniform price shall be adjusted by adding or subtracting for each one-tenth of one percent by which the average butterfat content of such milk is more or less, respectively, than 3.5 percent an amount equal to the butterfat differential computed pursuant to § 947.53(b).

Proposal No. 13. Delete § 947.82 and substitute therefor the following:

## § 947.82 Location differentials to producers.

In making payment for milk received from producers at a pool plant located 100 airline miles or more from the main U.S. Post Office in Carlyle, Illinois, as determined by the market administrator, the applicable uniform price shall be reduced at the rates set forth on the following schedule:

Rate per hundredweight

Distance (miles): (cents)

More than 100 but less than 110\_\_\_\_ 5.00

For each additional 10 miles or frac-

tion thereof\_\_\_\_\_\_ 1.5
Proposed by Square Deal Milk Pro-

ducers Association:

Proposal No. 14. Delete § 947.7 and substitute therefor the following:

### § 947.7 Producer.

"Producer" means any person, except a producer-handler or a dairy farmer for other markets, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is:

(a) Delivered from a farm to a pool

(b) Diverted to a nonpool plant which is not a pool plant under the terms of another order issued pursuant to the Act:

(1) By a cooperative association in its capacity as a handler pursuant to § 947.9(c) any number of days during the months of March through July or for a period not in excess of 16 days production

during each of the months of August through February; or

(2) By a handler who operates a pool plant any number of days during the months of March through July: Provided, That milk so diverted pursuant to subparagraphs (1) and (2) of this paragraph, shall be deemed to have been received at the plant from which diverted, except that milk diverted from a pool distributing plant to a nonpool plant located more than 150 airline miles from the U.S. Post Office in Carlyle, Illinois, shall be deemed to have been received at a pool plant at the same location as the nonpool plant to which diverted.

Proposal No. 15. Delete § 947.55 and substitute therefor the following:

## § 947.55 Rate of payment on unpriced milk.

The rate of payment per hundredweight on unpriced Class I milk shall be calculated as follows:

Subtract the Class II price, adjusted by the Class II butterfat differential, from the applicable Class I price adjusted by the Class I butterfat differential and the Class I location differential at the location of the plant from which such milk is supplied.

Proposal No. 16. Delete § 947.81 and substitute therefor the following:

### § 947.81 Butterfat differentials to pro-

In making payments for milk received from producers pursuant to § 947.80, the uniform price shall be adjusted by adding or subtracting for each one-tenth of one percent by which the average butterfat content of such milk is more or less, respectively, than 3.5 percent an amount equal to the butterfat differential computed pursuant to § 947.53(b).

Proposal No. 17. Amend all of the necessary sections and paragraphs in the Suburban St. Louis Order No. 47 which have any concern with respect to distribution of proceeds to provide for the establishment of an individual-handler type of pooling instead of the marketwide pool which is now in effect.

Proposed by Prairie Farms of Southern

Proposal No. 18. Amend § 947.45(a) by adding a new subparagraph (4) and (6) as follows; renumber subparagraph (4) as (5) and renumber subparagraphs (5) through (8) as (7) through (10):

(4) Subtract from the pounds of skim milk remaining in Class II an amount equal to the lesser of such remainder or the product obtained by multiplying by 0.05 the pounds of skim milk contained in receipts of producer milk and receipts from plants qualified pursuant to § 947.13 which were producer milk;

(6) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (4) of this paragraph;

Proposal No. 19. Amend § 947.70 by adding a new paragraph (3) as follows:

(3) With respect to a handler who transfers milk from a pool plant to a

nonpool plant which is owned and operated by such handler and which milk or/a portion thereof is classified as Class I milk by Order No. 47, and which non-pool plant disposes of Class I milk in another marketing area which has been established by another Federal order. and which order requires that compensatory payments be paid by such non-pool plant for Class I milk sold in such marketing area,

Subtract the lesser of the following

(i) The amount of such compensatory payment paid by the handler who also

operates the nonpool plant, or

(ii) An amount computed by multiplying the volume of milk classified as Class I milk, at the nonpool plant, which milk was transferred by the handler from a pool plant to such nonpool plant, by the applicable rate per hundredweight for computing the compensatory payment provided in the Federal order which regulates the handling of milk in the marketing area where such Class I milk was disposed of from the nonpool plant.

Proposal No. 20. Change the present order from a marketwide pool to an individual handler pool.

Proposed by Dressel Young Dairy Com-

Proposal No. 21. Amend § 947.43 to provide for the same method of classification of skim milk and butterfat in transfers of milk between pool plants under Order Nos. 47 and 3 as now provided for interhandler transfers under Order No. 47.

Proposed by Sullivan All Star Dairy Foods:

Proposal No. 22. Amend § 947.6 by including the counties of Moultrie, Shelby, Piatt, Douglas, Coles, Clark and Cumberland, all in the State of Illinois, in the definition of marketing area.

Proposed by Beatrice Foods Company: Proposal No. 23. Amend § 947.6 to include the following counties, all located within the State of Illinois, together and including any Federal, State or Municipal institutions located partially or wholly within the proposed area: Christian, Clark, Clay, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Hamilton, Jasper, Lawrence, Macon, Morgan, Moultrie, Menard, Richland, Saline, Sangamon, Shelby, Wabash, Wayne, and White.

Proposal No. 24. Amend § 947.44 by deleting the proviso relative to accounting for milk solids in concentrated form on the milk equivalent basis and to make such other conforming changes in other necessary sections of the order that such accounting shall be made on an actual

weight basis.

Proposal No. 25. Amend § 947.41(b) by inserting a new subparagraph (b) (2) as follows and renumbering the present subparagraphs (2) through (5) as (3) through (6), respectively.

(2) Disposed of to bakeries, candy manufacturing plants or to other commercial food processing plants.

Proposed by Mississippi Valley Milk Producers Association:

Proposal No. 25(a). Consider the inclusion of Mercer, Henry, Warren and No. 243-6

Knox Counties, all in the State of Illinois, in the marketing area of Order No. 44, regulating the handling of milk in the Quad Cities-Dubuque marketing

Proposed by Milk Marketing Orders Division, Agricultural Stabilization and Conservation Service:

Proposal No. 26. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Fred L. Shipley, 2710 Hampton Avenue, St. Louis 39, Missouri, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., or may be there inspected

Signed at Washington, D.C., on December 14, 1961.

ROBERT G. LEWIS, Deputy Administrator, Price and Production, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 61-12006; Filed, Dec. 18, 1961; 8:49 a.m.1

## DEPARTMENT OF HEALTH. EDU-CATION. AND WELFARE

Food and Drug Administration [ 21 CFR Part 121 ] FOOD ADDITIVES

### Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 649) has been filed by American Key Products, Inc., 12 East Fortysecond Street, New York 17, New York, proposing the issuance of a regulation to provide for the safe use of tamarind seed powder (tamarind seed gum) in the manufacture of paper and paperboard to be used in contact with food.

Dated: December 12, 1961.

J. K. KIRK, Assistant Commissioner of Food and Drugs.

[F.R. Doc. 61-11986; Filed, Dec. 18, 1961; 8:47 a.m.]

### [ 21 CFR Part 121 ] FOOD ADDITIVES

### Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition (FAP 271) has been filed by Gane's Chemical Works, Inc., 535 Fifth Avenue, New York 17, New York, proposing the issuance of a regulation to provide for the safe use of dehydroacetic acid and/or its sodium salt as a preservative on prepeeled, cubed squash for commercial packing so that residues of the additive do not exceed 65 parts per million (0.0065 percent) in the food.

Dated: December 12, 1961.

J. K. KIRK, Assistant Commissioner of Food and Drugs.

[F.R. Doc. 61-11987; Filed, Dec. 18, 1961; 8:47 a.m.]

### [ 21 CFR Part 121 ] FOOD ADDITIVES

### Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b) (5), 72 Stat. 1786; 21 U.S.C. 348 (b) (5)), notice is given that a petition (FAP 637) has been filed by S. B. Penick and Company, 100 Church Street, New York 8, New York, to provide for the safe use of a mixture of not less than 3 grams of bacitracin methylene disalicylate and not less than 1 gram of procaine penicillin in amprolium-medicated feed for growth promotion, provided that the total antibiotic used does not exceed 50 grams per ton of finished feed.

Dated: December 12, 1961.

J. K. KIRK. Assistant Commissioner of Food and Drugs.

[F.R. Doc. 61-11988; Filed, Dec. 18, 1961; 8:47 a.m.]

### [ 21 CFR Part 121 ] FOOD ADDITIVES

### Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b) (5)), notice is given that a petition (FAP 621) has been filed by Merck and Company, Inc., Rahway, New Jersey, proposing the issuance of a regulation to provide for the safe use of procaine penicillin in feed for pheasants and quail (for growth promotion) at levels equivalent to 2.4 grams to 50 grams and 10 grams to 50 grams, respectively, of penicillin G master standard activity per ton of finished feed.

Dated: December 12, 1961.

J. K. KIRK, Assistant Commissioner of Food and Drugs.

[F.R. Doc. 61-11989; Filed, Dec. 18, 1961; 8:47 a.m.]

### [ 21 CFR Part 121 ] FOOD ADDITIVES

### Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b) (5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 610) has been filed by Merck and Company Inc., Rahway, New Jersey, proposing the issuance of a regulation to provide for the safe use of a 9.6 percent solution of amprolium in the drinking water of chickens to provide dietary levels of 0.006 percent to 0.024 percent amprolium for treatment of coccidiosis.

Dated: December 12, 1961.

J. K. KIRK, Assistant Commissioner of Food and Drugs.

[F.R. Doc. 61-11990; Filed, Dec. 18, 1961; 8:47 a.m.]

## [ 21 CFR Part 121 ] FOOD ADDITIVES

### Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b) (5), 72 Stat. 1786; 21 U.S.C. 348 (b) (5)), notice is given that a petition (FAP 645) has been filed by Monsanto Chemical Company, 800 North Lindbergh Boulevard, St. Louis 66, Missouri, proposing the issuance of a regulation to amend § 121.1058 to permit additional methods of manufacturing colloidal silicon dioxide that provide a product of which at least 90 percent by weight will be particles 0.01 millimeters or less in size

Dated: December 12, 1961.

J. K. KIRK,
Assistant Commissioner
of Food and Drugs.

[F.R. Doc. 61-11991; Filed, Dec. 18, 1961; 8:47 a.m.]

## [ 21 CFR Part 121 ] FOOD ADDITIVES

### Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786; 21 U.S.C. 348 (b) (5)), notice is given that a petition (FAP 638) has been filed by Chas. Pfizer and Company, Inc., 235 East Forty Second Street, New York 17, New York, proposing the issuance of a regulation to provide for the safe use of stearyl monoglyceridyl citrate as an emulsion stabilizer in shortenings containing emulsifiers.

Dated: December 12, 1961.

J. K. KIRK,
Assistant Commissioner
of Food and Drugs.

[F.R. Doc. 61-11992; Filed, Dec. 18, 1961; 8:47 a.m.]

# FEDERAL COMMUNICATIONS COMMISSION

[ 47 CFR Parts 7, 8 ]

[Docket No. 14423; FCC 61-1457]

STATIONS ON LAND AND ON SHIP-BOARD IN THE MARITIME SERV-ICES

### Proposed Use of Certain Frequency

In the matter of amendment of Parts 7 and 8 of the Commission's rules con-

cerning use of the frequency 2003 kc/s for safety and operational communications between ship stations and limited coast stations at causeways, bridges, waterways and similar locations, and between ship stations and U.S. Coast Guard coast stations for port security communications, Docket No. 14423.

1. The Commission has received a petition for rule waiver to permit establishment of a limited coast station at a bridge near Hancock, Michigan. Direct communication in the 2 Mc/s frequency band between vessels in the vicinity of the bridge and a coast station is desired in order that there be safe and orderly routing and movement of vessels through the bridge waterway area to preclude property damage and protect life.

2. While a coast station has been in operation at the location using frequencies most suited for the purpose, that is in the VHF maritime mobile band, communication facilities in the 2 Mc/s band are indicated as being necessary to accommodate vessels transiting the bridge area that have 2 Mc/s radio-

telephone equipment only.

3. The need for communication of the nature involved in the request can be expected to occur at other locations in the Great Lakes area. The Commission considers that such communications should be provided for in the rules as was recently done in the case of other areas involving the use of 2738 and 2830 kc/s (Docket No. 14160), rather than on a rule waiver basis. It, therefore, proposes in the interest of utilizing every means available for the protection and safety of life and property, to make the intership frequency 2003 kc/s available, upon appropriate showing of need, on a shared basis to limited coast stations at causeways, bridges, waterways and similar locations. Under the proposal, communications serving the safety and related navigational needs of all types of vessels would be permissible. In view of the safety aspect of permissible communication, no showing would be required by an applicant that harmful interference would not be caused to the intership use of 2003 kc/s.

4. As an additional matter, it is proposed to expand permissible communications on 2003 kc/s in the Great Lakes area between ship stations and government coast stations to include communications with the United States Coast Guard concerning that Organization's port security program. Such communications, under the direction of United States Coast Guard coast stations would be conducted on 2003 kc/s only in those cases where vessels are unable to use the frequency 2670 kc/s, or a suitable frequency in the 156 to 174 Mc/s band, for the purpose and would be on a non-interference basis to intership communications on the frequency.

5. The proposed amendments are issued under the authority contained in section 303 (b), (c), (f), (g), and (r) of the Communications Act of 1934, as amended.

6. Pursuant to applicable procedures set forth in § 1.213 of the Commission's rules, interested persons may file comments on or before January 23, 1962 and reply comments on or before February 2,

1962. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

7. In accordance with § 1.54 of the Commission's rules, an original and four-teen copies of all statements, briefs, or comments filed shall be furnished the Commission.

Adopted: December 13, 1961.

Released: December 14, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,
BEN F WARLE

[SEAL] BEN F. WAPLE,
Acting Secretary.

A. Part 7 is amended as follows:

1. In § 7.365 the heading and paragraph (b) are amended to read as follows:

§ 7.365 Availability of 2003 kc/s, 2738 kc/s, 2830 kc/s and 2214 kc/s for limited coast stations.

(b) The frequencies 2003 kc/s, 2738 kc/s, 2830 kc/s are available for assignment on a shared basis to limited coast stations in the areas where they are available for intership use upon a showing that the use of such frequencies is necessary to fulfill the need for communications with ships relating to safety of navigation at bridges, waterways, causeways and similar locations. Communications between such coast stations and ships shall be conducted on the same working frequency. On an adequate showing of need, more than one frequency may be assigned. The maximum authorized transmitter power for such communications shall not exceed 50

B. Part 8 is amended as follows:

1. In § 8.358 paragraph (c) is revised and redesignated as paragraph (d) and a new paragraph (c) is added as follows:

§ 8.358 Frequencies below 3000 kc/s for safety purposes.

(c) The frequency 2003 kc/s is authorized for use by ship stations on the Great Lakes for communication with United States Coast Guard coast stations concerning port security when the vessel is not equipped to transmit on 2670 kc/s or a suitable frequency in the band 156 to 174 Mc/s. Such use is authorized on condition that harmful interference will not be caused to any ship-to-ship communications authorized in paragraph (a) of this section.

(d) The geographic limitations in paragraph (a) of this section:

(1) With respect to 2738 kc/s and 2830 kc/s, shall not apply in event of distress or emergency, and shall not prohibit ship-to-ship communication over any distance less than 200 statute miles when only one of the ship stations is within a geographic area in which use of the respective frequency is permissible.

(2) With respect to 2003 kc/s, 2738 kc/s and 2830 kc/s, shall not prohibit communications between a ship and a

limited coast station on either or both frequencies where the limited coast station has been authorized under the provisions of § 7.365(b) of this chapter.

- 2. Section 8.362(c) is amended to read as follows:
- § 8.362 Frequencies below 3000 kc/s for business, operational and safety pur-

(c) The frequencies 2003 kc/s, 2738 kc/s and 2830 kc/s may be used for safety and related navigational communication with limited coast stations authorized to engage in such communication: Provided. That use of these frequencies will be subject to the same conditions under which they are authorized to be used by limited coast stations under the provisions of § 7.365(b) of this chapter.

[F.R. Doc. 61-11998; Filed, Dec. 18, 1961; 8:48 a.m.]

### [ 47 CFR Part 10 ]

[Docket No. 14424; FCC 61-1458]

### PUBLIC SAFETY RADIO SERVICES

### Proposed Signalling Alarm

In the matter of amendment of Part 10 of the Commission's rules governing the public safety radio services to provide for signalling alarm, Docket No. 14424.

- 1, On July 26, 1961 the Commission authorized the granting of ten land mobile units to the Village of Skokie, Illinois, to be used on its authorized police frequency, for intruder or burglar alarm use.
- 2. In view of this action, it appears that provision should be made in the rules setting forth the requirements for such operation in the Police, Fire and Local Government Radio Services. It should be noted that the proposed amendments are consistent with the action taken by the Commission with respect to the Village of Skokie application. Further, the proposed action herein is in accord with the Commission's SS-Bulletin 1011, October 1960 which enunciates the reasons why neither a separate service nor specific frequencies for alarms systems can be
- 3. It is proposed to permit the operation, strictly on a secondary basis, of low-powered transmitters emitting tone or impulse signals for short periods of time when actuated, on presently assigned and authorized frequencies above 25 Mc/s, in the aforementioned Public Safety Radio Services. The appropriate rule changes are set forth below.

established.

4. Authority for the proposed amendments is contained in sections 303 and 4(i) of the Communications Act of 1934, as amended.

5. Pursuant to applicable procedures set forth in § 1.213 of the Commission's rules, interested persons may file comments on or before March 1, 1962 and reply comments on or before March 12, 1962. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

6. In accordance with the provisions of § 1.54 of the Commission's rules, an original and fourteen copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: December 13, 1961.

Released: December 14, 1961.

FEDERAL COMMUNICATIONS COMMISSION,

BEN F. WAPLE, [SEAL] Acting Secretary.

1. Section 10.254 is amended by the addition of a new paragraph (e) to read as follows:

\*

§ 10.254 Station limitations.

\*

(e) Tone or impulse signalling, for the purposes enumerated in subparagraph (1) of this paragraph, may be used on a secondary basis, to the extent provided in this Subpart on the mobile service frequencies above 25 Mc/s in the Police Radio Service, subject to the condition that harmful interference is not caused to the primary operations of any other licensee. All such secondary tone or impulse signalling shall be subject to the following limitations:

(1) Secondary tone or impulse signalling may be used only for the following

purposes:

(i) Automatic indication of equipment malfunction; and

(ii) Actuation of a device to indicate the presence of an intruder on property under the protection of the licensee.

(2) Any one alarm or warning utilizing secondary tone or impulse signalling shall be limited to not more than five transmissions, not to exceed six seconds each.

(3) The bandwidth utilized for secondary tone or impulse signalling shall not exceed that authorized to the licensee for voice emission on the frequency concerned.

(4) Frequency loading resulting from the use of secondary tone or impulse signalling will not be considered in whole or in part as a justification for authorizing additional frequencies in the licensee's mobile service system.

(5) A mobile service frequency may not be used exclusively for secondary

tone or impulse signalling.

(6) The plate power input to the final radio frequency stage when transmitting tone or impulse signals shall not exceed 50 watts

- (7) Only A1, A2, F1 or F2 emissions will be authorized for tone or impulse signalling.
- (8) Automatic means shall be provided to de-activate the transmitter in the event the carrier remains on for a period in excess of three minutes.
- 2. Section 10.304 is amended by the addition of a new paragraph (d) to read as follows:

§ 10.304 Station limitations.

(d) Tone or impulse signalling, for the purposes enumerated in subparagraph (1) of this paragraph, may be used, on a secondary basis, to the extent provided in this Subpart on the mobile service frequencies above 25 Mc/s in the Fire Radio Service, subject to the condition that harmful interference is not caused to the primary operations of any other licensee. All such secondary tone or impulse signalling shall be subject to the following limitations:

(1) Secondary tone or impulse signalling may be used only for the following

purposes:

(i) Automatic indication of equipment malfunction; and

(ii) Actuation of a device to indicate the presence of a fire on property under the protection of the licensee.

(2) Any one alarm or warning utilizing secondary tone or impulse signalling shall be limited to not more than five transmissions, not to exceed six seconds

(3) The bandwidth utilized for secondary tone or impulse signalling shall not exceed that authorized to the licensee for voice emission on the frequency concerned.

(4) Frequency loading resulting from the use of secondary tone or impulse signalling will not be considered in whole or in part as a justification for authorizing additional frequencies in licensee's mobile service system.

(5) A mobile service frequency may not be used exclusively for secondary

tone or impulse signalling.

(6) The plate power input to the final radio frequency stage when transmitting tone or impulse signals shall not exceed 50 watts.

- (7) Only A1, A2, F1 or F2 emissions will be authorized for tone or impulse signalling.
- (8) Automatic means shall be provided to de-activate the transmitter in the event the carrier remains on for a period in excess of three minutes.
- 3. Section 10.554 is amended by the addition of a new paragraph (c) to read as follows:

\* \* \*

§ 10.554 Station limitations.

- (c) Tone or impulse signalling, for the purposes enumerated in subparagraph (1) of this paragraph, may be used, on a secondary basis, to the extent provided in this subpart on the mobile service frequencies above 25 Mc/s in the Local Government Radio Service, subject to the condition that harmful interference is not caused to the primary operations of any other licensee. All such secondary tone or impulse signalling shall be subject to the following limitations:
- (1) Secondary tone or impulse signalling may be used only for the following purposes:
- (i) Automatic indication of equipment malfunction; and
- (ii) Actuation of a device to indicate the presence of an intruder or fire on

property under the protection of the licensee.

(2) Any one alarm or warning utilizing secondary tone or impulse signalling shall be limited to not more than five transmissions, not to exceed six seconds each.

(3) The bandwidth utilized for secondary tone or impulse signalling shall not exceed that authorized to the licensee for voice emission on the frequency concerned.

(4) Frequency loading resulting from the use of secondary tone or impulse signalling will not be considered in whole or in part as a justification for authorizing additional frequencies in the licensee's mobile service system.

(5) A mobile service frequency may not be used exclusively for secondary tone or impulse signalling.

(6) The plate power input to the final radio frequency stage when transmitting tone or impulse signals shall not exceed 50 watts.

(7) Only A1, A2, F1 or F2 emissions will be authorized for tone or impulse signalling.

(8) Automatic means shall be provided to de-activate the transmitter in the event the carrier remains on for a period in excess of three minutes.

[F.R. Doc. 61-11999; Filed, Dec. 18, 1961; 8:48 a.m.]

## **Notices**

## DEPARTMENT OF JUSTICE

Office of Alien Property EDWARD BARRY AND OTTO W. DEBARY

### Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Property, and Location

Edward Barry, 777 Plandome Road, Man-hasset, N.Y., Claim No. 59284; \$15,151.97 in the Treasury of the United States and an undivided one-half interest in the securities described below, acquired by the Attorney General pursuant to Vesting Order No. 15904. Otto W. deBary, Ricardo Palma 281, Lima-

San Isidro, Peru, Claim No. 59285; \$15,151.96 in the Treasury of the United States and an undivided one-half interest in the securities described below, acquired by the Attorney General pursuant to Vesting Order No. 15904

Vesting Orders Nos. 252, 6215, 15904, 16948, 16949, 17607, and 19074; three-fourths interest in 195 shares General Electric Common Stock, held by Frederick & Co., New York, N.Y.; three-fourths interest in \$50.62 Mexican Current Interest Scrip Receipts, held in safekeeping in the Office of Alien Property, Washington 25, D.C.; \$7,275 Mexican Treasury 5% Bonds of 1913, Small 2nd Assented, held in safekeeping in the Office of Alien Property, Washington 25, D.C.; one-half interest \$1,000 National Railways of Mexico P/L 4½ % Bond, due 10/1/26, held in safekeeping in the Office of Alien Property, Washington 25,

Executed at Washington, D.C., on December 12, 1961.

For the Attorney General.

PAUL V. MYRON. Deputy Director, Office of Alien Property.

[F.R. Doc. 61-11968; Filed, Dec. 18, 1961; 8:45 a.m.]

## DEPARTMENT OF THE TREASURY

**Bureau of Customs** 

[T.D. 55530]

CROWN ZELLERBACH CORP.

Notice of Qualification as a Citizen of the United States

DECEMBER 13, 1961.

This is to give notice that pursuant to §3.21, Customs regulations, issued under the provisions of section 27A of

the Merchant Marine Act, 1920, as added by the Act of September 2, 1958 (46 U.S.C. 883-1), the Crown Zellerbach Corporation of 1 Bush Street, San Francisco, California, incorporated under the laws of the State of Nevada, did on September 28, 1961, file with the Commissioner of Customs in duplicate an oath for qualification of a corporation as a citizen of the United States following the form of oath prescribed in customs Form 1260.

The oath shows that:

(a) A majority of the officers and directors of the corporation are citizens of the United States (list of names, home addresses, and citizenship attached to the oath):

(b) Not less than 90 percent of the employees of the corporation are resi-

dents of the United States:

(c) The corporation is engaged primarily in a manufacturing or mineral industry in the United States, or in a Territory, District, or possession thereof:

(d) The aggregate book value of the vessels owned by the corporation does not exceed 10 percent of the aggregate book value of the assets of the corpora-

tion: and

(e) The corporation purchases or produces in the United States, its Territories or possessions not less than 75 percent of the raw materials used or sold in its operations.

The Commissioner of Customs having found this oath to be in compliance with the law and regulations, on December 13, 1961, issued to the Crown Zellerbach Corporation a certificate of compliance on customs Form 1262 as provided in § 3.21(i) of the regulations. The certificate and any authorization granted thereunder will expire three years from the date thereof unless there first occurs a change in the corporate status requiring a report under § 3.21(h) of the regulations.

PHILIP NICHOLS, Jr., [SEAL] Commissioner of Customs.

[F.R. Doc. 61-11985; Filed, Dec. 18, 1961; 8:47 a.m.1

### DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-132]

### AMERICAN PRESIDENT LINES, LTD. Notice of Hearing

Notice is hereby given that a public hearing will be held under section 605(c) of the Merchant Marine Act, 1936, as amended, upon an application of American President Lines, Ltd., for a modification of its subsidized Atlantic/Straits Service, Trade Route No. 17, and amendment of its Operating Differential Subsidy Agreement in accordance therewith

(new areas to be served hereinafter italicized) to read as follows: Between United States Atlantic ports and California and (1) a port or ports in the Indonesia-Malaya-Singapore area and (2) a port or ports in Japan (via the Panama Canal in each direction), with permissive calls at Marshall Islands, Guam, the Philippines, Hong Kong, China, U.S.S.R. in Asia, Viet Nam, Cambodia, Thailand, Taiwan, Korea, Okinawa and Canadian Atlantic and St. Lawrence River ports not west of Montreal. Not more than 16 sailings per annum shall carry commerical cargo from California to Guam.

The purpose of the hearing is to receive evidence relevant to the following: (1) Whether the application with respect to the operations hereinabove described is one with respect to a vessel or vessels to be operated on service, route or line, served by citizens of the United States which would be in addition to the existing service or services, and, if so, whether the service already provided by vessels of United States registry in such service, route or line is inadequate. and in the accomplishment of the purposes and policy of the Act, additional vessels should be operated thereon; (2) Whether the application covering these operations is one with respect to a vessel operated or to be operated in a service, route or line served by two or more citizens of the United States with vessels of United States registry, and if so, whether the effect of such an agreement would be to give undue advantage or be unduly prejudicial, as between citizens of the United States, in the operation of vessels in competitive services, routes, or lines. and (3) Whether it is necessary to enter into an agreement covering said service modification in order to provide adequate service by vessels of United States registry.

The hearing will be before the Maritime Subsidy Board or an Examiner selected by said Board, at a time and place to be announced, in accordance with Maritime Administration/Maritime Subsidy Board's rules of practice and procedure and the Administrative Procedure Act, and a decision will be issued, said decision, if rendered by an Examiner, to be a recommended decision.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) desiring to intervene in the proceeding, must file notification thereof with the Secretary, Maritime Subsidy Board, Washington 25, D.C., in writing, in triplicate, by close of business on January 12, 1962.

By order of the Maritime Subsidy Board.

Dated: December 8, 1961.

JAMES S. DAWSON, Jr., Secretary.

[F.R. Doc. 61-11972; Filed, Dec. 18, 1961; 8:45 a.m.]

## ATOMIC ENERGY COMMISSION

WESTINGHOUSE ELECTRIC CORP.

[Docket No. 50-87]

## Notice of Issuance of Facility License Amendment

Please take notice that the Atomic Energy Commission has issued Amendment No. 4, set forth below, to Facility License No. CX-11. The license authorizes Westinghouse Electric Corporation to operate its CES critical experiment facility located at the Westinghouse Reactor Evaluation Center near Waltz Mill. Pennsylvania.

The amendment provides an authorization to possess and use 32 grams of plutonium-239 contained in plutonium-beryllium sealed sources in connection with operation of the reactor. Previously the licensee had used a polonium-beryllium source in the reactor which has decayed and will be replaced by the plutonium-beryllium source.

The Commission has found that operation of the facility in accordance with the license, as amended, will not present undue hazard to the health and safety of the public and will not be inimical to the common defense and security.

The Commission has further found that prior public notice of proposed issuance of this amendment is not necessary in the public interest since operation of the facility in accordance with the license, as amended, would not present any substantial change in the hazards to the health and safety of the public from those previously considered and evaluated in connection with the previously approved operations.

In accordance with § 2.102(a) of the Commission's rules of practice (10 CFR Part 2) the Commission will direct the holding of a formal hearing on the matter of issuance of the license amendment upon receipt of a request therefor from the licensee or a petition to intervene pursuant to § 2.705 of the rules of practice within 30 days after the issuance of the license amendment. Petitions for leave to intervene and requests for a formal hearing shall be filed in accordance with the provisions of § 2.700 of the Commission's rules of practice (10 CFR Part 2).

The licensee's requests for amendment of the license, dated September 27 and 28, 1961, may be inspected at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Germantown, Md., this 12th day of December 1961.

For the Atomic Energy Commission.

ROBERT H. BRYAN,
Acting Chief, Research and
Power Reactor Safety
Branch, Division of Licensing and Regulation.

[License No. CX-11; Amdt. 4]

Paragraph (2)B. of License No. CX-11, as amended, issued to Westinghouse Electric Corporation is hereby amended to read as follows:

"(2) B. Pursuant to the Act and Title 10, CFR, Chapter 1, Part 70, 'Special Nuclear Material,' to receive, possess and use in con-

nection with operation of the critical experiment facility 32 grams of plutonium-239 contained in plutonium-beryllium sources and up to 21 kilograms of contained uranium-235 as fuel."

Date of Issuance: December 12, 1961. For the Atomic Energy Commission.

> ROBERT H. BRYAN, Acting Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.

[F.R. Doc. 61-11971; Filed, Dec. 18, 1961; 8:45 a.m.]

## CIVIL AERONAUTICS BOARD

[Docket 12778 etc.]

### BOISE-LAS VEGAS SERVICE CASE

### Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on January 16, 1962, at 10:00 a.m. (local time) in the Court Room, United States Court House, Boise, Idaho, before the undersigned Examiner.

Any person not a party to the proceeding desiring to be heard in support of or in opposition to the proposed service (and who has not already done so should file with the Examiner on or before January 12, 1962, notice to that effect and should state the matters he desires to advance at the hearing. Persons filing such a statement may appear in accordance with § 302.14 of the Board's rules of practice.

Dated at Washington, D.C., December 14, 1961.

[SEAL]

THOMAS L. WRENN, Associate Chief Examiner.

[F.R. Doc. 61-12007; Filed, Dec. 18, 1961: 8:49 a.m.]

[Docket 12817 etc.]

### NEW YORK-JAMAICA NONSTOP CASE

### Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled proceeding is assigned to be heard on January 10, 1962, at 10 a.m., e.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the Board.

Dated at Washington, D.C., December 14, 1961.

[SEAL]

Francis W. Brown, Chief Examiner.

[F.R. Doc. 61-12008; Filed, Dec. 18, 1961; 8:49 a.m.]

[Docket 13122]

## SERVICE TO COLUMBUS, NEBRASKA, INVESTIGATION

### Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of

1958, as amended, that hearing in the above-entitled proceeding is assigned to be held on January 18, 1962, at 10 a.m., e.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the undersigned Examiner.

Dated at Washington, D.C., December 14, 1961.

[SEAL]

WALTER W. BRYAN, Hearing Examiner.

[F.R. Doc. 61-12009; Filed, Dec. 18, 1961; 8:49 a.m.]

# FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 14150; FCC 61M-1953]

## ANDREW B. LETSON (WZRO) Order Scheduling Prehearing

Conference
In re application of Andrew B. Letson (WZRO), Jacksonville, Florida, Docket No. 14150, File No. BP-13353, for con-

struction permit.

A further prehearing conference in the above-entitled proceeding will be held on Tuesday, December 19, 1961, beginning at 10:00 a.m. in the offices of the Commission, Washington, D.C.

It is so ordered, This the 12th day of December 1961.

Released: December 13, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-11996; Filed, Dec. 18, 1961; 8:48 a.m.]

[Docket Nos. 14351-14353; FCC 61M-1956]

## WOLVERINE BROADCASTING CO.

### Order re Procedural Dates

In re applications of John C. Lane, Elizabeth B. Barrett & Edward Fitzgerald, d/b as Wolverine Broadcasting Company, Wyoming, Michigan, Docket No. 14351, File No. BP-13842; William Kuiper, William Eugene Kuiper and Peter J. Vanden Bosch, d/b as Muskegon Heights Broadcasting Company, Muskegon Heights, Michigan, Docket No. 14352, File No. BP-14039; Wayne Stebins, tr/as Grand Valley Broadcasting Company, Saranac, Michigan, Docket No. 14353, File No. BP-14487; for construction permits.

As a result of agreements reached upon the record of a prehearing conference held this date in the above-entitled matter: It is ordered, This 12th day of

December 1961:

1. Preliminary engineering exhibits will be exchanged February 13, 1962,

2. Lay exhibits will be exchanged February 13, 1902, February 13, 1962,

February 13, 1962,
3. Notification of witnesses for cross-examination will be accomplished on or

before March 6, 1962, and 4. The hearing heretofore scheduled for January 8, 1962 is hereby rescheduled to commence at 10:00 a.m., March 20, 1962 in the Commission's offices in Washington, D.C.

Released: December 13, 1961.

FEDERAL COMMUNICATIONS COMMISSION, BEN F. WAPLE,

[SEAL]

Acting Secretary.

[FR. Doc. 61-11997; Filed, Dec. 18, 1961; 8:48 a.m.]

### FEDERAL POWER COMMISSION

[Project No. 2244]

## WASHINGTON PUBLIC POWER SUPPLY SYSTEM

Notice of Land Withdrawal Modification; Washington

DECEMBER 13, 1961.

By notice of land withdrawal issued June 30, 1958, this Commission gave notice of the reservation of approximately 2,569.84 acres of United States land pursuant to the filing on April 28, 1958, by the Washington Public Power Supply System, of an application for preliminary permit for this project (No. 2244).

On July 7, 1960 license for this project was issued by the Commission pursuant to the filing, on April 20, 1959, of application for license.

On December 22, 1960, the licensee filed application for amendment of license which included an additional area, for an access road right-of-way, not previously included in the land withdrawal.

Therefore in accordance with section 24 of the Act of June 10, 1920 (41 Stat. 1063), as amended, notice is hereby given that the lands hereinafter described, insofar as title thereto remains in the United States, are included in Project No. 2244 and are, from the date of filing of completed application for amendment of license, December 22, 1960, reserved from all forms of disposal under the laws of the United States until otherwise directed by the Commission or by Congress.

### WILLAMETTE MERIDIAN

All portions of the following subdivisions lying within a strip 50 feet on either side of the Centerline Survey of the Access Road as delimited on maps designated "Exhibit K sheet 6A (FPC Nos. 2244-45)" entitled "Packwood Lake Project, Project Topography" (General Map of Road location) and Exhibits K sheets 25A, 26A, 27A, and 28A (FPC Nos. 2244-61 to 64 inclusive) and entitled "Packwood Lake Project Access Road," filed in the Commission December 20, 1960.

T. 13 N., R. 9 E., Sec. 23: SE1/4;

Sec. 26: Lots 1, 2, 3, S½NE¼, SE¼NW¼.

The additional area reserved pursuant to the filing of this application for amendment of license is approximately 29.50 acres wholly within the Gifford Pinchot National Forest and has been heretofore reserved for power in connection with earlier applications for this project No. 2244 or project No. 2083.

Copies of project maps Exhibits K sheets 6A (FPC No. 2244-45) and 25A to 28A inclusive (FPC Nos. 2244-61 to 64 inclusive) are being transmitted to the Bureau of Land Management, Forest Service and Geological Survey.

Joseph H. Gutride, Secretary.

[F.R. Doc. 61-11974; Filed, Dec. 18, 1961; 8:46 a.m.]

# INTERSTATE COMMERCE COMMISSION

[No. 33440]

PREVENTION OF RAIL-HIGHWAY
GRADE-CROSSING ACCIDENTS INVOLVING RAILWAY TRAINS AND
MOTOR VEHICLES

### Continuation of Oral Hearing

It appearing that at the oral hearing in the above-entitled proceeding it was understood among the parties that the hearing in this proceeding would be continued to a date in January 1962, and that an order to that effect would be entered, and good cause therefor appearing;

It is ordered, That hearing in the above-entitled proceeding be, and it is hereby, continued for hearing on January 23, 1962 at the office of the Interstate Commerce Commission, Washington, D.C., at 10:00 o'clock a.m., United States Standard Time, before Examiners Henry J. Vinskey and Robert R. Boyd, and before such representatives of the State Commissions as shall be designated under the Cooperative Agreement between the Interstate Commerce Commission and State Commissioners of May 3, 1922, as revised October 14, 1925, as further supplemented and adopted as of August 31, 1937;

And it is further ordered, That notice of this order shall be given to respondents and to the general public by posting a copy thereof in the Office of the Secretary of the Commission in Washington, D.C., for public inspection and by filing a copy with the Director of the Division of the Federal Register for publication in

the FEDERAL REGISTER.

Dated at Washington, D.C., this 7th day of December A.D. 1961.

By the Commission, Commissioner Tuggle.

[SEAL]

HAROLD D. McCoy, Secretary.

[F.R. Doc. 61-11984; Filed, Dec. 18, 1961; 8:47 a.m.]

# SECURITIES AND EXCHANGE COMMISSION

[File No, 812-1467]

EQUITY CORP.

Notice of Filing of Application

DECEMBER 12, 1961.

Notice is hereby given that The Equity Corporation ("Applicant"), 103 Park Avenue, New York, N.Y., a corporation organized and existing under the laws of the State of Delaware, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting from the provisions of section 17(a) (3) of the Act the making of loans by a bank controlled by Applicant to officers, employees, or directors of such controlled bank. All interested persons are referred to the application on file with the Commission for a complete statement thereof.

Applicant represents that it owns approximately 50 percent of the outstanding voting securities of Bell Intercontinental Corporation ("Bell"), and that Bell owns more than 50 percent of the outstanding voting securities of Central National Bank and Trust Company of Des Moines, Iowa ("Central Bank"), a National Banking Association organized under the laws of the United States. Applicant represents that it controls Central Bank within meaning of section 2(a) (9) of the Act.

By virtue of such control relationships. Applicant, Bell, and Central Bank would "affiliated persons" of each other be within the definition contained in section 2(a)(3) of the Act. Since officers, employees, and directors of Central Bank are by definition affiliated persons thereof, such persons would be affiliated persons of an affiliated person of Applicant. Section 17(a) (3) of the Act, with certain exceptions, prohibits an affiliated person of an affiliated person of a registered investment company from borrowing money from such registered company or from any company controlled by such registered company. Accordingly, section 17(a)(3) prohibits the making of Accordingly, secloans by Central Bank to its officers, employees, or directors.

Under section 17(b) of the Act, the Commission shall grant an exemption from the prohibitions of section 17(a) if it finds that the terms of a proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned, and that such transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act. Since the application reguests exemption for a designated class of transactions rather than for a specific transaction, the instant application is filed pursuant to section 6(c) rather than section 17(b). Section 6(c) of the Act authorizes the Commission, by order upon application, to exempt conditionally or unconditionally any class of transactions from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the loans to be made would be reasonable and fair, would not involve overreaching on the part of any person, and would be consistent with its policy and with the general purposes of the Act.

Applicant submits the following as appropriate conditions to be imposed with

the granting of the requested order of exemption.

(1) The borrower shall not be affiliated directly or indirectly in any manner with The Equity Corporation or with any company controlled by it except as an officer, director or employee of Central Bank:

(2) The loans shall be made in accordance with applicable state or federal banking laws and any rules and regulations thereunder.

(3) The loans shall have been approved in writing by the board of directors of Central Bank not more than three months prior to the date on which the loan is made, or during such period shall have been approved in writing by the loan, discount or appropriate committee of Central Bank and ratified in writing by the board of directors of Central Bank;

(4) Central Bank shall require the borrower to file with it a statement of his financial condition at least once a year, unless the loan shall be secured by collateral having an ascertained market value of at least 15 percent more than the amount of the obligation; and

(5) The loan and the terms thereof shall be in accordance with the normal lending policies of the bank and shall not be inconsistent with any policy of Equity.

Notice is further given that any interested person may, not later than December 28, 1961, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be

notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. A copy of such reguest shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) should be filed contemporaneously with the reguest. At any time after said date, as provided by Rule O-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL]

ORVAL L. DuBois, Secretary.

[F.R. Doc. 61-11981; Filed, Dec. 18, 1961; 8:47 a.m.]

### SMALL BUSINESS ADMINISTRA-TION

[Declaration of Disaster Area 358]

### LOUISIANA

#### Declaration of Disaster Area

Whereas, it has been reported that during the month of November 1961, because of the effects of certain disasters,

damage resulted to residences and business property located in St. John the Baptist Parish in the State of Louisiana;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act.

Now, therefore, as Deputy Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) (1) of the Small Busines Act may be received and considered by the Offices below indicated from persons or firms whose property, situated in the aforesaid Parish and areas adjacent thereto, suffered damage or destruction resulting from tornado and accompanying conditions occurring on or about November 22, 1961.

Offices-

Small Business Administration Regional Office, Fidelity Building, 1000 Main Street, Dallas 2, Tex.

Small Business Administration Branch Office, Federal Office Building, Room 303, 610 South Street, New Orleans 12, La.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to June 30, 1962.

Dated: December 4, 1961.

C. R. LANMAN, Deputy Administrator.

[F.R. Doc. 61-11982; Filed, Dec. 18, 1961; 8:47 a.m.]

## CUMULATIVE CODIFICATION GUIDE-DECEMBER

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